
PUBLIC OFFERING STATEMENT

FOR

KWINIASKA RIDGE PLANNED COMMUNITY

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Exhibits

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**PUBLIC OFFERING STATEMENT
FOR
KWINIASKA RIDGE PLANNED COMMUNITY**

This Public Offering Statement (the “Public Offering Statement”) is made by **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with a place of business in Shelburne, Vermont (“Declarant”), in connection with the development and sale of a common interest community known as the Kwiniska Ridge Planned Community, located in Shelburne, Vermont and established in accordance with the Vermont Common Interest Ownership Act, 27A V.S.A. § 1-101, *et seq.* (the “Act”).

Background

1. Declarant is the owner in fee simple of a 51.04 acre, more or less, parcel of land in Shelburne, Vermont on the west side of Spear Street (the “Property”) as shown on the following plats: “Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (South),” Sheet PL-2, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 894B of the Town of Shelburne Land Records; and “Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (North),” Sheet PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 895A of the Town of Shelburne Land Records (collectively, the “Plat”) and on an Overall Site Plan prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated June 1, 2017, last revised February 11, 2019, and on file with the Town of Shelburne Zoning and Planning Office (the “Site Plan”). The Plat and Site Plan are attached as Exhibit 1.

2. The Property has received permits and approvals for the subdivision and development of ninety-one (91) lots designated as Lots S1-S27, 1C-28C and T1-T36 on the Plat and Site Plan (the “Lots”), of which Lots S1-S27 are single-family home lots (the “Single Family Lots”), Lots 1C-28C are each designed for use and occupancy by a carriage home on each building footprint lot (the “Carriage Home Lots”), Lots T1-T36 are each designed for use and occupancy by an attached townhome on each building footprint lot (the “Townhome Lots”) and eight (8) open space parcels designated as Open Space Parcels 1-8 on the Plat and Site Plan, all as described in the Declaration of Planned Community for Kwiniska Ridge to be recorded in the Town of Shelburne Land Records (the “Declaration”). A copy of the Declaration is attached as Exhibit 2.

3. Declarant has established an association known as the Kwiniska Ridge Homeowners’ Association, Inc., a Vermont non-profit corporation (the “Association”). All of the owners of the Lots will be members of the Association. The Declarant intends to convey the Open Space Parcels (defined below) as shown on the Plat and on the Site Plan to the Association, which will be responsible for the maintenance, repair and upkeep of these areas for the benefit of all owners. The Association will also be responsible for the maintenance, repair and replacement of additional common elements and facilities described in the Declaration, including common portions of the stormwater drainage system for the Planned Community.

4. Under the Act, Declarant must provide a public offering statement which discloses the matters required by Sections 4-103 and 4-104 of the Act. Capitalized terms used in this Public Offering Statement that are not otherwise defined herein have the meanings and definitions set forth in Section 1-103 of the Act or in the Declaration.

N O W , T H E R E F O R E ,

Declarant hereby makes and executes this Public Offering Statement for the purposes stated herein and upon the following terms and conditions:

Section 1. **Name and Address of Declarant and Common Interest Community.**

- (a) **Name and Principal Address of Declarant.** Declarant's name is The Snyder Shelburne Properties, LLC, a Vermont limited liability company with a principal address of 4076 Shelburne Road, Suite 6, Shelburne, VT 05482.
- (b) **Name and Principal Address of Common Interest Community.** The name of the Common Interest Community is the Kwiniaska Ridge Planned Community, with a property address of 5760 Spear Street, in Shelburne, Vermont.
- (c) **Statement of Form of Community.** The Kwiniaska Ridge Planned Community is a planned community, as that term is defined in the Act.

Section 2. **Description of Planned Community.**

- (a) **Types and Number of Lots.** As used in the Declaration, each Lot is defined as a Unit under the Act. As of the date of the Declaration, the Planned Community consists of ninety-one (91) Lots, of which Lots S1-S27 are Single Family Lots, Lots 1C-28C are Carriage Home Lots and are designed for use and occupancy by a carriage home on each building footprint lot, Lots T1-T36 are Townhome Lots and are designed for use and occupancy by an attached townhome on each building footprint lot, and eight (8) Open Space Parcels substantially as depicted on the Plat and Site Plan.

The Declaration includes a number of development rights, as described in the Declaration.

Each Lot (including each footprint Lot) has been designed for separate ownership corresponding with the boundaries of each Lot. The footprint Lots are surrounded by the remaining common element areas.

IT SHOULD BE EMPHASIZED THAT THE DEFINITION OF A "LOT" OR "FOOTPRINT LOT" INCLUDES ONLY THE FEE SIMPLE OWNERSHIP OF THE GROUND SPACE COMPRISING THE LOT OR FOOTPRINT LOT TOGETHER WITH ANY WATER, SEWER OR UTILITY LINE CONNECTIONS OR STUBS LOCATED ON THE LOT. ALL IMPROVEMENTS ON THE LOT OR FOOTPRINT LOT, INCLUDING THE RESIDENTIAL DWELLING AND ANY OTHER IMPROVEMENTS TO BE CONSTRUCTED THEREON, SHALL BE CONSTRUCTED BY SNYDER AT THE LOT OWNER'S EXPENSE.

Each Unit will be assigned one (1) of the ninety-one (91) memberships in the Association, one for each Unit. In the event Declarant exercises its Development Rights to add Units to the Planned Community, the Allocated Interests shall be adjusted by a formula defined as a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Units in the Planned Community. Except as otherwise set forth in the Declaration for the redetermination of the Allocated Interests by Declarant upon the filing of an amendment to the Declaration to exercise

Development Rights and/or Special Declarant Rights, the Allocated Interest shall be of a permanent character and may not be changed without the consent of all Unit Owners. A Unit's Allocated Interest shall be determinative of all matters under the Act, the Declaration and the Bylaws which are properly determined by reference to the Allocated Interest, including, but not limited to the weight of each Unit Owner's vote for Association purposes and the allocation of Common Expenses.

- (b) Declarant's Construction Schedule. The Declarant is in the process of constructing the project roadways and the infrastructure to serve the Lots in two phases as shown on the Site Plan. It is anticipated that construction will continue on a regular basis until the entire Planned Community is completed. At this point in time, because the build-out is governed by housing demands and subcontractor schedules, it is impossible to specify a time when construction would likely be completed. The Declarant would like to sell the Lots as quickly as market conditions allow.

The Planned Community will be served by public roadways and underground electric, gas, telephone, cable television and stormwater drainage lines. Each Unit will be connected to the municipal sewer system and public water supply. All utility, water and sewer lines will be substantially completed for connection to the Units as the Units are sold. Each Unit Owner will have an easement, in common with others, over the Common Elements described in the Declaration and depicted on the Plat, subject to the specific restrictions set forth in the Declaration.

Section 3. **Planned Community Documents**. Unless otherwise noted, the following documents are attached to this Public Offering Statement and are incorporated by reference. All of these documents are subject to amendment by the Declarant:

- (a) Declaration. The Declaration is attached hereto as Exhibit 2. The Property Description for the Planned Community is attached as Exhibit A to the Declaration.
- (b) Covenants, Conditions, Restrictions and Reservations. Since the Declarant has not created any recorded covenants, restrictions or reservations other than those contained or referenced in the Declaration, no copies are attached as an exhibit to this Public Offering Statement.
- (c) Bylaws. The Bylaws of the Kwiniaska Ridge Homeowners' Association, Inc. are attached as Exhibit 3. The composition and control of the Association is described in further detail in Article 9 of the Declaration.
- (d) Rules and Regulations. The Board of Directors of the Association has not adopted any Rules and Regulations.
- (e) Deed. The form of the Deed proposed to be delivered by Declarant to a third-party purchaser is attached as Exhibit 4. The Deed will be executed by Declarant and dated as of the date of each closing. It will describe the Lot appearing on the purchaser's sales contract. Title conveyed by said Deed shall be subject to all encumbrances referred to in the Declaration and the Deed.
- (f) Contracts and Leases to be Signed by Purchasers at Closing. There are no leases or contracts to be executed by purchasers at closing other than a Limited Warranty Agreement attached as Exhibit 5.

- (g) Contracts or Leases Subject to Cancellation by the Association. The Declarant may enter into a contract with a management company for the management of the Planned Community. Any such management contract will be subject to cancellation as provided in the Declaration.

Each purchaser would be affected by such a management contract because it would authorize the manager to manage and operate the Planned Community at its own discretion, based upon service and maintenance standards in the contract.

- (h) Other Contracts. At this point in time it is too soon to determine the extent to which the Association will be contracting for various services to the Planned Community. However, it is anticipated that contracts may be entered into for snowplowing services for the roadway, walkways, landscaping and minimal maintenance of the Common Elements, including annual maintenance and inspections of the stormwater system. As the nature and amounts of these contract obligations become known they will be made available.
- (i) Certificate of Incorporation. The Certificate of Incorporation for the Association, as amended, is attached hereto as Exhibit 6.

Section 4. **Projected Budget for the Association.** The projected budget for the Association for one year after the first conveyance to a purchaser is attached as Exhibit 7. The monthly assessment applicable to each Unit will be derived by dividing the total monthly budget by each Unit's Allocated Interest.

The projected budget is based on estimates of operation during initial occupancy. It does not constitute a representation that the Association will allocate services and activities in accordance with that budget, or choose to maintain this level of maintenance and management services. It merely indicates a possible method of allocating the monthly maintenance charges initially established by the Declarant, and a level of service that could be undertaken within this budget. Because of ongoing sales activity mixing with management, the budgeted expenses may not be spent as indicated, but management services will be provided solely in accordance with the management contract. When the Owners other than the Declarant control the Board of Directors of the Association, monthly assessments will be based upon the actual expenses of the Planned Community.

At the closing on the sale of each Lot, Declarant will collect three (3) months of dues for the Association as an initial contribution towards the capital reserve fund of the Association that will be maintained by the Association as shown on the budget. These funds will be paid directly by each purchaser to the Association at their respective closing.

Section 5. **Description of Liens, Defects or Encumbrances Affecting Title and Narrative Land Use Requirements.** Title to the Property and each Unit is subject to all applicable regulations and laws of the Town of Shelburne and the State of Vermont and is subject to and has the benefit of the following:

- (a) Those matters recited in the Declaration and its exhibits, all covenants, conditions, restrictions, easements, and rights of way as referenced and depicted on the Plat and Site Plan, and those matters recited in the Warranty Deed attached as Exhibit 4.

- (b) Town of Shelburne Development Review Board Findings of Fact and Decision, PUD-R Final Plan Application SUB16-02 dated February 20, 2019, evidenced by the confirmation endorsed on the recorded Plat, a copy of which is attached as Exhibit 8.
- (c) State of Vermont Wastewater System and Potable Water Supply Permit No. WW-4-5195 issued on July 22, 2019 and recorded in Volume 453 at Page 507 of the Town of Shelburne Land Records, a copy of which is attached as Exhibit 9.
- (d) State of Vermont (Act 250) Land Use Permit No. 4C1318 issued on September 6, 2019 and recorded in Volume 453 at Page 628 of the Town of Shelburne Land Records, a copy of which is attached as Exhibit 10.
- (e) State of Vermont, Stormwater Discharge Permit No. 7826-INDS was issued on September 12, 2017 authorizing stormwater discharge runoff from the Kwiniska Subdivision located on the west side of Spear Street across from the Kwiniska Golf Course. A Notice of Issuance of Stormwater Discharge Permit dated October 4, 2019 is recorded at Volume 1093 at Page 413 of the Town of Shelburne Land Records, copies of which are attached as Exhibit 11. Reference is also made to Stormwater Discharge Permit, NPDES Number VTS004800, Permit Number 7826-INDC.1 issued to The Snyder Shelburne Properties, LLC on May 14, 2019 authorizing the discharge of stormwater runoff from a construction site of the Fairway at Spear Subdivision (the former name of the Project) located off of Spear Street discharging to wetlands and unnamed tributaries of Monroe Brook, copies of which are also attached at Exhibit 11.
- (f) State of Vermont Public Water System Construction Permit, Public Community Water System, Project #C-3660-19.0 was issued on June 19, 2019 and on record with the Vermont Department of Environmental Conservation, Drinking Water and Groundwater Protection Division, a copy of which is attached as Exhibit 12.
- (g) Survey Certification pursuant to 27A V.S.A. § 2-109, a copy of which is attached as Exhibit 13.
- (h) Irrevocable Offer of Dedication (Roadways) from The Snyder Shelburne Properties, LLC to the Town of Shelburne dated November 6, 2019 and to be recorded in the Town of Shelburne Land Records (dedicating the public roadways and public infrastructure depicted on the Plat); Open Space Agreement by and between The Snyder Shelburne Properties, LLC and the Town of Shelburne dated November 6, 2019 and to be recorded in the Town of Shelburne Land Records; Easement Deeds from The Snyder Shelburne Properties, LLC to the Town of Shelburne dated November 6, 2019 and December 27, 2019 and to be recorded in the Town of Shelburne Land Records (conveying easements for the pedestrian path, stormwater drainage and sewer easements as shown on the Plat), copies of which are attached at Exhibit 14.

Section 6. **Financing Offered or Arranged by Declarant.** Declarant is not offering any financing to purchasers of Units at this time.

Section 7. **Warranties.** The following statutory warranties are provided by the Act:

- (a) **Express Warranties of Quality - Section 4-113.** Express warranties made by any seller to a purchaser of a Unit, if relied on by the purchaser, are created as follows:

- (i) Any affirmation of fact or promise which relates to the Unit, its use or rights appurtenant thereto, area improvements to the Common Interest Community that would directly benefit the Unit, or the right to use or have the benefit of facilities not located in the Common Interest Community, creates an express warranty that the Unit, area improvements and related rights and uses will conform to the affirmation or promise.
 - (ii) Any model or description of the physical characteristics of the Common Interest Community, including plans and specifications for improvements, creates an express warranty that the Common Interest Community will substantially conform to the model or description.
 - (iii) Any description of the quantity or extent of the real property comprising the Common Interest Community, including surveys, creates an express warranty that the Common Interest Community will conform to the description, subject to customary tolerances.
 - (iv) A provision that a purchaser may put a Unit only to a specified use is an express warranty that the specified use is lawful.
 - (v) Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty is necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real property or its value does not create a warranty.
 - (vi) Any conveyance of a Unit transfers to the purchaser all express warranties of quality made by previous sellers.
- (b) Implied Warranties of Quality - Section 4-114.
- (i) A declarant warrants to a purchaser that a Unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.
 - (ii) A declarant impliedly warrants to a purchaser that a Unit and the Common Elements in the Common Interest Community are suitable for the ordinary uses of real property of its type and that any improvements made or contracted for by him, or made by any person before the creation of the Common Interest Community, will be: (x) free from defective materials; and (y) constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.
 - (iii) In addition, a declarant warrants to a purchaser of a Unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.
 - (iv) Warranties imposed by Section 4-114 may be excluded or modified as specified in the Act.

- (v) For purposes of Section 4-114, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.
 - (vi) Any conveyance of a Unit transfers to the purchaser all of the Declarant's implied warranties of quality.
- (c) Exclusion or Modification of Implied Warranties of Quality - Section 4-115.
- (i) Except as limited by Subsection 7(c)(ii) with respect to a purchaser of a Unit that may be used for residential use, implied warranties of quality: (x) may be excluded or modified by agreement of the parties; and (y) are excluded by expression of disclaimer, such as "as is," or "with all faults," or other language that in common understanding calls the purchaser's attention to the exclusion of warranties.
 - (ii) With respect to a purchaser of a Unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a declarant may disclaim liability in an instrument signed by the purchaser for a specified defects or class of defects or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.
- (d) Statute of Limitation for Warranties - Section 4-116.
- (i) A judicial proceeding for breach of any obligation arising under Sections 4-113 or 4-114 of the Act shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement to reduce the six-year period with respect to the infrastructure or Dwelling constructed by Declarant and related improvements constructed on each Lot shall be evidenced by the Limited Warranty Agreement executed by the purchaser at closing and attached as Exhibit 5.
 - (ii) Subject to Subsection 7(d)(iii), a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach accrues: (x) as to a Unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and (y) as to each Common Element, at the time the Common Element is completed and first used by a bona fide purchaser.
 - (iii) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the Planned Community, the cause of action accrues at the time the breach is discovered or at the end of the period or which the warranty explicitly extends, whichever is earlier.
- (e) Excluded Warranties. PURSUANT TO SECTION 4-115 OF THE ACT, THE FOLLOWING WARRANTIES DESCRIBED ABOVE ARE EXCLUDED:
- (i) NO WARRANTIES ARE MADE AS TO THE CONDITION OF ANY HOT WATER HEATER, KITCHEN EQUIPMENT OR APPLIANCE OR OTHER ITEMS CONSIDERED CONSUMER PRODUCTS UNDER THE MAGNUSEN-MOSS FEDERAL TRADE COMMISSION IMPROVEMENT

ACT. THE DECLARANT WARRANTS, HOWEVER, THAT ALL SUCH EQUIPMENT WILL BE INSTALLED NEW AND THAT THE DECLARANT WILL DELIVER TO BUYER ALL MANUFACTURERS' WARRANTIES THAT ARE BOTH APPLICABLE TO SUCH EQUIPMENT OR APPLIANCES AND FOR THE SOLE BENEFIT OF THE CONSUMER PURCHASER IN ACCORDANCE WITH THE ACT.

- (ii) IMPROVEMENTS AND APPLIANCES INSTALLED BY DECLARANT AT THE BUYER'S REQUEST AND EXPENSE, IF ANY, SHALL BE COVERED BY THE MANUFACTURER'S OR CONTRACTOR'S WARRANTY, IF ANY.
- (iii) THE DECLARANT MAKES NO REPRESENTATIONS FOR WARRANTIES AS TO THE CONDITION OR HEALTH OF ANY SHRUBS, TREES OR PLANTINGS LOCATED ON THE AREAS SURROUNDING THE BUILDINGS. THE DECLARANT WILL DELIVER TO THE ASSOCIATION ANY NURSERY'S WARRANTIES THAT ARE BOTH APPLICABLE TO SUCH VEGETATION AND FOR THE SOLE BENEFIT OF THE ASSOCIATION.
- (iv) NO ADDITIONAL EXPRESS OR IMPLIED WARRANTIES, UNLESS REQUIRED BY LAW, ARE MADE BY THE DECLARANT OTHER THAN ANY CONTAINED IN THE LIMITED WARRANTY AGREEMENT.
- (v) ALL WARRANTY WORK TO BE PERFORMED SHALL BE DONE DURING NORMAL BUSINESS HOURS, AND PURCHASER WILL MAKE EVERY REASONABLE EFFORT TO COOPERATE IN ALLOWING THE PERFORMANCE OF SUCH WARRANTY WORK BY DECLARANT OR ITS DESIGNEE.

Section 8. **Unsatisfied Judgments or Pending Suits.** There are no unsatisfied judgments or pending suits affecting the Planned Community at this time.

Section 9. **Restrictions on Use, Alienation or Occupancy.** The following use restrictions apply to all Units and to the Common Elements:

- (a) **Residential Use.** Lots shall be used for residential purposes only, and no trade or business of any kind may be carried on therein, except home occupations allowed by municipal bylaws, and leases for residential purposes with a term of not less than six (6) months, and as otherwise provided in the Declaration and Bylaws.
- (b) **Garages and Parking.** Garages are restricted to use by the Lots for which they belong as a parking space for vehicles. Garages may not be converted to living space. No unregistered motor vehicle, or any boat, boat trailer, snowmobile, snowmobile trailer, camper, truck (other than pick-up trucks), or recreational vehicle may be parked, stored, or maintained on any portion of the Property. The parking of motor vehicles along the roadway or in other spaces which have not been designated for parking shall be strictly prohibited. No structures of a temporary character, tents, shacks, barns, trailers, garages, unfinished basements, or other outbuildings shall be occupied as living quarters on the Property.

- (c) Nuisances. There shall be no disposal of trash, rubbish or garbage or the burning of same on any Lot; nor shall any Lot be used for the storage of any property or item that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, item, thing or material be kept upon any Lot that will emit foul or obnoxious odors or cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Lots.
- (d) Lighting. Except for seasonal decorative lights, all exterior lights must be installed or shielded in such manner to conceal light sources and reflector surfaces and used in a manner which will not unduly disturb surrounding Lot Owners, do not violate any permit conditions and must be pre-approved by the Board of Directors.
- (e) Trees. Except for trees removed by Declarant, no tree six (6") inches or larger on the stump shall be cut on the Property until approved in writing by the Declarant or, after Declarant transfers control to the Association, by the Board of Directors. In addition, no trees shall be cut on the Open Space Parcels, unless such trees are dead or dying and are a safety concern.
- (f) Animals. No animals shall be permitted on the Property other than dogs and other domestic pets. All dogs and other domestic pets shall be in the control of the Owner at all times while on the Property. Owners are responsible for immediate cleanup of any waste in the public thoroughfares and/or damage to Common Elements. Owners are also responsible for all impoundment costs incurred in the control of dogs or other domestic animals while on the Common Elements. In addition, Owners are subject to the animal control ordinances of the Town of Shelburne.
- (g) Satellite Dishes. No antennas shall be installed on a Lot or on the exterior of any Dwelling erected thereon. One dish type receiver, no greater than 18" in diameter or length, may be installed on the side or rear exterior wall of any Dwelling or in the rear or side yard of the Lot except where a side yard has frontage on a public street.
- (h) Grading and Drainage. The grading and/or drainage patterns of any Lot shall not be altered for any reason due to each Lot's necessary conformance with the plans submitted and approved by the Town of Shelburne and the State of Vermont.
- (i) Architectural Control. Pursuant to Sections 2-105(a)(15), 3-103 and 3-106 of the Act, except for Dwellings or improvements constructed or installed by the Declarant, no building, fence, wall or other structure shall be commenced, erected, maintained or placed on a Lot, nor shall any addition or external alteration be made, until the design and location or alterations have been approved in writing by the Declarant or, upon transfer of Declarant's control of the Association, by the Board. No approval shall be required for the design and location of any Dwelling or improvement constructed by Declarant on the Property. Any Owner seeking approval under this Section shall provide the Declarant or Board, as the case may be, with a written request for approval which shall include a narrative description and site plan or drawing depicting the proposed improvement or improvements. The Declarant or Board, as the case may be, shall approve or deny a written request for approval within thirty (30) days after receipt and, in the event the Declarant or Board fail to issue a decision within said thirty (30) day period, the written request for approval shall be deemed to be approved. Notwithstanding the foregoing, this section shall not preclude the installation solar collectors on the roof of a Dwelling provided that: (a) such roof has an orientation to the south or within 45 east or west of due south; and (b) the solar collectors are flush with the roof shingles.

Section 10. **Description of Insurance Provided for the Benefit of Lot Owners.** The following is only a general description of the initial policies.

- (a) **Casualty Insurance.** In order to ensure that sufficient reconstruction or repair funds, or both, will be available to the Association if and when needed, the Board shall obtain insurance for the Common Elements and the Limited Common Elements, together with separate insurance for the duplex Dwellings on the Townhome Lots on the Property, in such amounts as it shall determine, to provide not less than one hundred percent (100%) of the current replacement value (exclusive of foundations, land, excavations, and other items that are normally excluded from such insurance coverage) in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall protect against fire and all other hazards or perils customarily covered and the proceeds of such insurance shall be used only for the repair, replacement and reconstruction of the Common Elements unless determined otherwise in accordance with the Declaration. The Board may elect such endorsements and deductible provisions as are, in its judgment, consistent with good business practice and the purpose for which the insurance is bought. Any such policy shall provide that it cannot be canceled or substantially changed, except upon at least ten (10) days' written notice to the insured. The insurance for the duplex Dwellings on the Townhome Lots shall be exterior building structure insurance (master insurance policy) with an "all in" endorsement that shall insure all portions of the duplex Dwellings located from the sheetrock of the Dwellings outward to the exterior of the building, including, without limitation, sheetrock, interior partitions, studs, plumbing and electrical fixtures, roofing, siding, insulation and all portions of the Dwellings not included in the "interior portions" described in Section 8.6 of the Declaration. The cost of the separate insurance for the duplex Dwellings on the Townhome Lots shall be separately assessed against the thirty-six (36) Owners of the Townhome Lots.
- (b) **Liability Insurance.** The Board of Directors of the Association shall also purchase broad form comprehensive liability coverage in such amounts and in such forms as prudent management practice suggests. A policy shall provide that it cannot be canceled or substantially changed, except upon at least ten (10) days' written notice to the insured.
- (c) **Separate Insurance.** The Owner of each Lot (other than Townhome Lots) shall be responsible for obtaining, at his or her own expense, separate casualty and liability insurance for his or her own Lot and the Dwelling constructed thereon. The Owner of each duplex Dwelling on the Townhome Lots shall be responsible for obtaining, at his or her own expense, any additional insurance for interior portions of his or her own Dwelling not covered by the master insurance policy for the Townhome Lots. No insurance purchased by the Association shall in any way prejudice the right of each Owner to obtain insurance for his or her own Lot for his or her own benefit, nor shall the insurance purchased by the Owner prejudice the Association's rights and protection under policies purchased by the Association under this Declaration. All such separate policies of insurance obtained by an Owner shall contain a waiver of subrogation if available.

You are urged to study these provisions and to consult with your own insurance advisor to assure yourself that you are aware of the extent of coverage provided by the Association's policies and to make arrangements for appropriate additional coverage, if additional coverage is necessary.

Section 11. **Fees or Charges for the Use of the Common Elements.** Other than assessments described in the Declaration and fines for misconduct, no fees or charges are presently assessed for the use of the Common Elements.

Section 12. **Financial Arrangements for Completion of Improvements.** The Declarant has commenced construction of the Planned Community through a combination of bank financing and Declarant funds. Additional construction will be financed through a similar combination of funds.

Section 13. **Unusual and Material Circumstances and Characteristics.**

- (a) Without the prior written consent of the Vermont District #4 Environmental Commission, or its successor, no alteration may be made to any Dwelling which would reduce the effect of the water-conserving plumbing fixtures or insulation, including low-flush toilets, low-flow showerheads, and aerator or flow-restricted faucets. All leases shall require maintenance of same and prohibit replacement with non-water conserving fixtures.
- (b) The Declarant will construct the stormwater treatment system on the Property, in accordance with the approved plans and permit conditions. After construction, the stormwater treatment system shall be maintained, repaired and replaced by the Association and by accepting a Deed for a Lot, each Lot Owner shall consent to the Association's responsibility for such obligations. After construction, the Declarant shall have no further obligations for the maintenance, repair or replacement of the stormwater systems, except for construction defects occurring prior to the delivery of the systems to the Association.
- (c) Fertilizer use on lawns shall be limited and shall only be allowed after a soil test, with the fertilizer application tailored to address any nutrient deficiencies.
- (d) Notice is hereby given that the Association will agree in the future to make the open space area available irrevocably and in perpetuity for agricultural purposes with access to such open space over the roadways depicted on the Plat. These agricultural uses may include, without limitation, plowing, planting, fertilizing and the use of agricultural chemical, pesticides and herbicides in the course of cultivating, harvesting, storing and transporting agricultural feed or product. Consistent with this notice, all Lots are conveyed subject to a perpetual easement for any noise, odors, dust and/or byproducts and impacts that may occur in the course of conducting accepted agricultural and best-management practices on the nearby lands, including Open Space Parcels for any noise, odors, dust, mud or slowing of traffic on the project roadways by agricultural vehicles. All Lot Owners, by the acceptance of their deed, waive any objection to impacts arising from accepted agricultural and best-management practices which are consistent with the rules established pursuant to 6 V.S.A., Ch. 215 and are further notified that agricultural activities which are consistent with accepted agricultural and best-management practices do not constitute a nuisance.
- (f) "Open Space Parcel 3, 17.92 AC" as more fully described and shown on the Plat will be remain open space in perpetuity and shall be owned and maintained by the Association as described above in Sections 3.2(d) and 11.1, unless otherwise conveyed to a non-profit land trust or the Town of Shelburne as set forth in Section 13.8 of this Declaration, and subject to the terms and conditions of the Open Space Agreement between the Declarant and the Town of Shelburne.

- (g) Each Buyer acknowledges and agrees that it is the nature of multiuse properties (of which their Unit is a part) that attached Dwellings are built in close proximity to one another (resulting in sharing of common walls, floors and ceilings) and noise is occasionally audible from one Unit to the next no matter how much soundproofing is attempted. Each Buyer further acknowledges and agrees that sound insulation from an adjacent occupancy may not be comparable to a detached single-family residence. Each Buyer further acknowledges and understands that the Planned Community is located adjacent to or near existing pedestrian trails and other residential neighborhoods and that the Planned Community is located in a semi-urban setting and may be subject to a certain street and neighborhood noises, through traffic and related impacts.
- (h) Burlington Airport is approximately five miles from the Property and aircraft periodically pass over the Property; the Property is approximately 3.5 miles away from a shooting range in Charlotte on Lime Kiln Road; the remaining portions of the Kwiniaska Golf Course are located across the street from the Property and there is the risk of errant golf balls and the golf course may use fertilizers, herbicides and pesticides on its property that are beyond the control of Declarant. Declarant has no ownership interest in, affiliation with, or control over the activities on the Kwiniaska Golf Course, or whether the Kwiniaska Golf Course will remain open in the future. Each Buyer further acknowledges and agrees that the Buyer has been given an ample opportunity to have the Unit and the Dwelling inspected before the closing to determine the degree of noise and that the Declarant has made no statements and no warranties or representations, express or implied, regarding this issue on which the Buyer has relied in connection with the Buyer's decision to purchase the Unit.

Section 14. Maintenance of Common Elements. The Association shall maintain and keep the Common Elements in good repair at all times, including without limitation, the Open Space Parcels, the Access Roads (until accepted by the municipality), pedestrian paths (until accepted by the municipality), water lines, sewer lines, sewer pumps, the stormwater drainage system including stormwater ponds, lighting, landscaping, utility lines and facilities, and including the Limited Common Elements (other than those facilities and improvements located within a public right of way), except for such maintenance of the Limited Common Elements as the Board of Directors shall, from time to time, delegate to the Lot Owners appurtenant thereto. The maintenance shall be performed in a professional manner customary to the respective trade.

Section 15. Maintenance of Lots and Dwellings. Each Owner shall maintain his or her Lot and all improvements thereon and appurtenances thereto in good repair. Such maintenance shall be consistent with the Declaration. In addition, each Owner shall be responsible for paying the real estate taxes assessed against the Lot, for insuring the Lot and all improvements thereon, and for maintaining all private utilities or other apparatus which serve only the Lot.

In addition, each Owner of a Carriage Home Lot or Townhome Lot shall be responsible for maintaining, repairing and replacing any driveway, walkway, patio or deck located outside a Carriage Home Lot or Townhome Lot which serves only the Owner's Lot and all landscape plantings located within the Lot or surrounding decks or patios. All other landscaping located within the Common Elements shall be maintained, repaired and replaced by the Association. In addition, in the event a Unit Owner of a Carriage Home Lot or Townhome Lot obtains approval under Section 14.5 of the Declaration to install a fence around their rear yard area, the area within such fences shall be a Limited Common Element appurtenant to the respective Unit and the Unit Owner shall be responsible for maintaining the fence and the area within the fence, with the exception of the lawn that will be mowed by the Association's landscaping contractor as long as the Owner maintains a gate that is at least 52" wide to

allow access for the mowers, it being the intention that the Owner will be responsible for all other items located within the fenced area, such as flower beds.

In the event that an Owner should fail to perform any obligation required as described above as may be determined by the Board, then the Board may provide for the performance of any such neglected obligation by whatever reasonable means it may determine in its sole discretion. In case of emergency as determined by the Board, it may act immediately; and in all other cases the Board may act hereunder following thirty (30) days written notice to the Owner. All expenses incurred by the Association as a result of taking action under this section shall be chargeable to the Owner as provided for under Sections 9.6 and 10.3 of the Declaration.

In addition, the Owner of each attached Dwelling on a Townhome Lot shall be responsible for paying a pro rata portion of the maintenance, repair and replacement costs for all shared party walls, roofs, siding or other shared construction elements that are shared with any other Dwellings that are attached to the Owner's Dwelling. Each Townhome Lot Owner's pro rata share of such costs shall be a fraction, the numerator of which shall be one (1) and the denominator of which shall be the number of attached Dwellings forming a single building. For example, if a Townhome Lot Owner's Dwelling is part of an attached structure containing a total of two (2) attached Dwellings, the Townhome Lot Owner shall be responsible for one-half ($\frac{1}{2}$) of the costs to maintain any shared party walls, roofs, siding or other shared construction elements to the extent not covered by the Association maintenance described above.

Section 16. **Maximum Number of Lots.** The Declarant has reserved all Development Rights and Special Declarant Rights permitted by law and the Declarant reserves the right to develop a maximum of one hundred nine (109) Dwellings and/or Lots on the Property.

Section 17. **Number or Percentage of Lots Restricted Exclusively to Residential Use.** All of the Units will be restricted exclusively to residential use, except for a sales or rental office that may be maintained by the Declarant in accordance with the terms of the Declaration.

Section 18. **Compatibility of Buildings.** The Dwellings on the Property will be of slightly varied designs but will be constructed with similar materials. However, no assurance is made that Dwellings will have the same size, design or that the Dwellings will be constructed with the same materials.

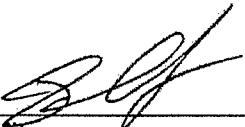
Section 19. **Limitations on Location of Dwellings.** When constructed, the Dwellings will be sited in substantial conformance with the Plat approved by the Town of Shelburne and Vermont District #4 Environmental Commission, as the same may be amended from time to time.

Section 20. **Compatibility of Limited Common Elements.** Any Limited Common Elements within the Common Interest Community will be of similar size, design and constructed with similar materials. However, no assurance is made that all Limited Common Elements will have the same size or design or that they will be constructed with the same materials.

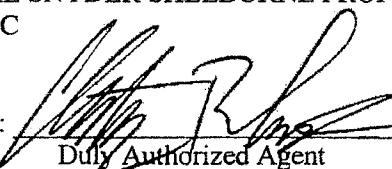
THE STATEMENTS SET FORTH ABOVE ARE ONLY A SUMMARY OF THE NATURE AND SCOPE OF THE COMMON INTEREST COMMUNITY. A PROSPECTIVE PURCHASER SHOULD REFER TO THE ENTIRE SET OF DISCLOSURE MATERIALS AND HIS OR HER SALES CONTRACT. ALL DISCLOSURE MATERIALS AND CONTRACTS ARE IMPORTANT DOCUMENTS AND IF NOT UNDERSTOOD, THE PROSPECTIVE PURCHASER SHOULD SEEK COMPETENT ADVICE.

IN WITNESS WHEREOF, Declarant, by its Duly Authorized Agent, has caused this Public Offering Statement to be executed as of the 14 day of February, 2020.

IN PRESENCE OF:


Witness

THE SNYDER SHELBOURNE PROPERTIES,
LLC

By: 

Duly Authorized Agent

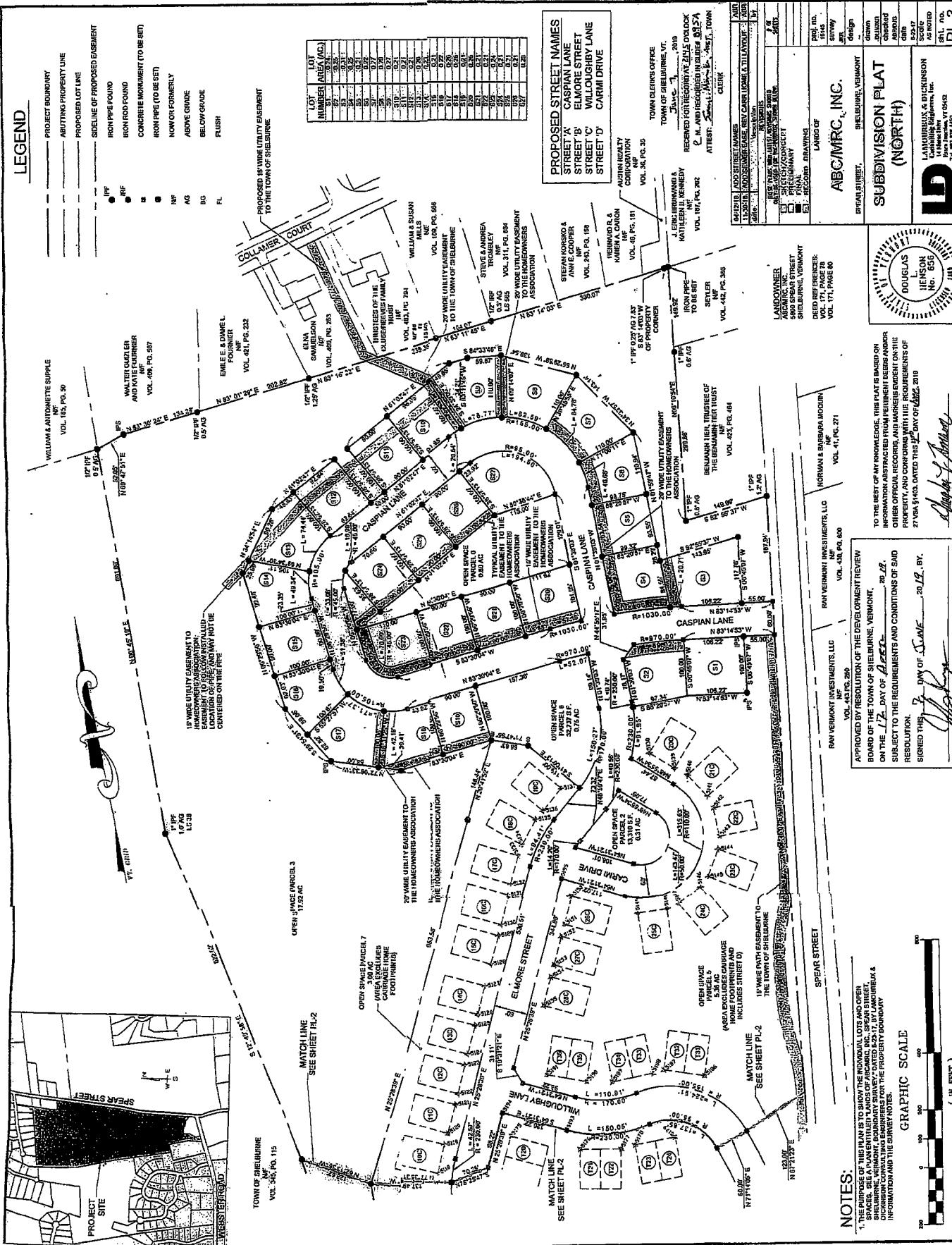
STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

Before me, on this 14th day of February, 2020, personally appeared Christopher R Snyder, Duly Authorized Agent of **THE SNYDER SHELBOURNE PROPERTIES, LLC**, known to me to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **THE SNYDER SHELBOURNE PROPERTIES, LLC**.

2/14/20
Date


Notary Public State of Vermont

Printed Name: Daniel Gaynor
Commission No.: 157.0011327
Commission Expires: 1/31/21



PROPOSED STREET NAMES

LOT	LOT
WILLOWBY	ELMORE
127	126
128	125
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PROPOSED UTILITY EASEMENT TO THE TEE BOX INSTALLED ON THE GOLF COURSE ON THE PROPERTY

TO THE TOWN OF SHELBURNE, VT.

JULY 1, 2010

RECEIVED FOR RECORDING AT 125 POOL C. M. AND REGISTERED IN INDEX #2574 ATTEST: J. ERIC IRVING & KATHLEEN L. KENNEDY VOL. 101, PG. 262

ATTEST: J. ERIC IRVING & KATHLEEN L. KENNEDY VOL. 101, PG. 262

TOWN CLERKS OFFICE

CLERK

PROPOSED STREET NAMES

STREET 'A' CASPIAN LANE
STREET 'B' ELMORE STREET
STREET 'C' WILLOWBY LANE
STREET 'D' CARMINE DRIVE

AUTHORITY GRANT
CONTRACT AGREEMENT
VOL. 40, PG. 151 VOL. SE. 35

LANDOWNER
TOWN OF SHELBURNE, VT
SPEAR STREET
SHELBURNE, VERMONT
USED REFERENCES:
VOL. 171, PAGE 78
VOL. 171, PAGE 80

NOTES:

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE INDIVIDUAL LOTS AND OPEN SPACES, SEE A PLANTED LIST OF ACRES, AC, SQFT, BLMR, & BLMR-A FOR THE PROPERTY BOUNDARY. THIS PLAN IS NOT DRAWN TO SCALE. IT IS THE RESPONSIBILITY OF THE SURVEYOR AND ENGINEER TO DETERMINE THE PROPERTY BOUNDARY.

2. THESE NOTES ARE FOR INFORMATION ONLY. THIS PLAN IS BASED ON INFORMATION RECEIVED FROM THE SURVEYOR AND OTHER OFFICIAL RECORDS. IT IS THE RESPONSIBILITY OF THE SURVEYOR AND ENGINEER TO DETERMINE THE PROPERTY BOUNDARY.

3. THIS PLAN IS FOR THE USE OF THE DEVELOPMENT REVIEW BOARD OF THE TOWN OF SHELBURNE, VERMONT, ON THE 172, DAY OF 2012.

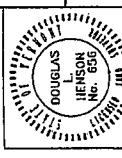
4. SUBJECT TO THE REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION.

5. SIGNED THIS 27 DAY OF JUNE, 2012, BY:

[Signature]

GRAPHIC SCALE

(IN FEET)



APPROVED BY RESOLUTION OF THE DEVELOPMENT REVIEW BOARD OF THE TOWN OF SHELBURNE, VERMONT, ON THE 172, DAY OF 2012.

SUBJECT TO THE REQUIREMENTS AND CONDITIONS OF SAID RESOLUTION.

SIGNED THIS 27 DAY OF JUNE, 2012, BY:

[Signature]

RAN VERMONT INVESTMENTS, LLC
VOL. 40, PG. 600

NOTES:

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE INDIVIDUAL LOTS AND OPEN SPACES, SEE A PLANTED LIST OF ACRES, AC, SQFT, BLMR, & BLMR-A FOR THE PROPERTY BOUNDARY. THIS PLAN IS NOT DRAWN TO SCALE. IT IS THE RESPONSIBILITY OF THE SURVEYOR AND ENGINEER TO DETERMINE THE PROPERTY BOUNDARY.

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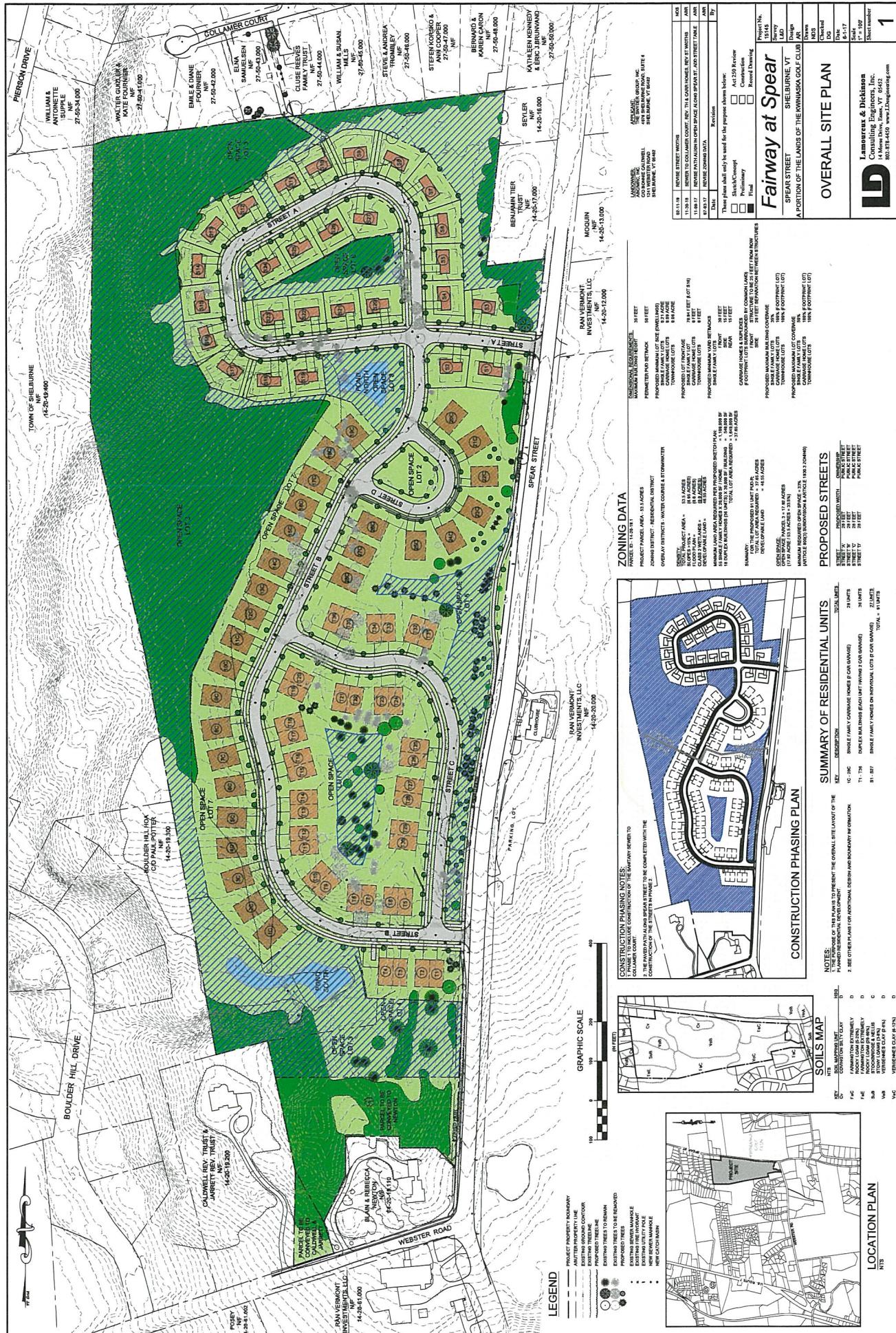
5. SIGNED THIS 27 DAY OF JUNE, 2012, BY:

[Signature]

GRAPHIC SCALE

(IN FEET)





DECLARATION OF PLANNED COMMUNITY

FOR

KWINIASKA RIDGE

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Exhibits

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Exhibit B	-	Association Bylaws

DECLARATION OF PLANNED COMMUNITY FOR KWINIASKA RIDGE

This Declaration of Planned Community for Kwiniaska Ridge (the “Declaration”) is made by **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with a place of business in Shelburne, Vermont (“Declarant”).

Background

1. Declarant is the owner in fee simple of a 51.04 acre, more or less, parcel of land in Shelburne, Vermont on the west side of Spear Street (the “Property”) as shown on the following plats: “Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (South),” Sheet PL-2, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 894B of the Town of Shelburne Land Records; and “Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (North),” Sheet PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 895A of the Town of Shelburne Land Records (collectively, the “Plat”).

2. The Property has received permits and approvals for the subdivision and development of ninety-one (91) lots designated as Lots S1-S27, 1C-28C and T1-T36 on the Plat and on the Plans (the “Lots”), of which Lots S1-S27 are single-family home lots (the “Single Family Lots”), Lots 1C-28C are each designed for use and occupancy by a carriage home on each building footprint lot (the “Carriage Home Lots”), Lots T1-T36 are each designed for use and occupancy by an attached townhome on each building footprint lot (the “Townhome Lots”) and eight (8) open space parcels designated as Open Space Parcels 1-8 on the Plat and Plans.

3. Declarant has established an association known as the Kwiniaska Ridge Homeowners’ Association, Inc., a Vermont non-profit corporation (the “Association”). All of the owners of the Lots will be members of the Association. The Declarant intends to convey the Open Space Parcels (defined below) as shown on the Plat and Plans to the Association, which will be responsible for the maintenance, repair and upkeep of these areas for the benefit of all owners. The Association will also be responsible for the maintenance, repair and replacement of additional common elements and facilities described in this Declaration, including common portions of the stormwater drainage system for the Planned Community.

N O W , T H E R E F O R E ,

Declarant hereby makes and executes this Declaration of Planned Community for the purposes stated herein and upon the following terms and conditions.

ARTICLE 1 Submission: Defined Terms

Section 1.1. **Submission.** Declarant hereby submits the Property to this Declaration and to the provisions of Title 27A V.S.A. §§ 1-101 et seq., known as the Vermont Common Interest Ownership Act, as amended from time to time (the “Act”), and hereby creates with respect to the Property a Planned Community to be known as “Kwiniaska Ridge” (the “Planned Community”) which shall be held, sold, transferred, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to the reservations, covenants, conditions, restrictions, easements, assessments, and liens hereinafter set forth which are for the purpose of protecting the value and desirability of the Property, and which shall run with the title to the Property, and which shall be binding on all parties having any right, title, or interest in or to the Property or

any part thereof, and their respective heirs, legal representatives, successors, and assigns, and shall inure to the benefit of each and every owner of all or any portion of the Property.

Section 1.2. **Definitions**. Each capitalized term used herein without definition shall have the meaning specified in this Declaration or the Bylaws of the Kwiniaska Ridge Homeowners' Association, Inc. (the "Bylaws"), or if not otherwise defined in this Declaration or the Bylaws then as defined in the Act:

"Act" means the Vermont Common Interest Ownership Act, 27A V.S.A. §§ 1-101 et seq., as amended from time to time.

"Access Roads" means: Caspian Lane, Elmore Street, Willoughby Lane and Carmi Drive until accepted by the Town of Shelburne as public roads.

"Allocated Interests" means the Common Expense Liability and the votes in the Association.

"Assessment" means the amount assessed against the Owners of each Lot from time to time by the Association described below in the manner provided herein.

"Association" means the Kwiniaska Ridge Homeowners' Association, Inc., a Vermont non-profit corporation organized under § 3-101 of the Act. The ownership of each Lot shall include one membership in the Association.

"Board" means the board of directors of the Association charged with the management and operation of the Association, being the Executive Board as defined in the Act and Bylaws.

"Bylaws" means the Bylaws of the Association, as amended from time to time, a copy of which is attached as Exhibit B.

"Common Elements" means all portions of the Property that are owned or will be owned or leased by the Association and all appurtenances thereto, other than the Lots.

"Common Expenses" means the expenditures made by or financial liabilities of the Association and any allocations to reserves.

"Common Expense Liability" means the liability for Common Expenses allocated to each Lot pursuant to § 2-107 of the Act.

"Declarant" means The Snyder Shelburne Properties, LLC, and its successors and assigns.

"Declaration" means this Declaration of Planned Community for Kwiniaska Ridge as it may be amended from time to time, and includes all of the Exhibits hereto.

"Development Rights" means any right or combination of rights reserved by the Declarant in this Declaration to create Lots, Common Elements or Limited Common Elements within the Planned Community, to subdivide Lots or convert Lots into Common Elements, or to add or withdraw real estate from the Planned Community. The Declarant's Development Rights include the Special Declarant Rights defined in the Act.

"Dwelling" shall mean the single-family residential structure, carriage home or attached townhome structure, including garage, which is located on a Lot.

"First Mortgagee" means the holder of any first mortgage lien or the beneficiary under any first deed of trust encumbering a Lot. The term "mortgage" includes both mortgages and deeds of trust.

"Institutional," as used in conjunction with "Lender," "Holder," "Mortgagee," or "First Mortgagee," means commercial and savings banks, savings and loan associations, trust companies and established mortgage companies, insurance companies, private mortgage insurance companies, pension funds, any corporation, including a corporation of or affiliated with the State of Vermont or United States Government, including, without limitation, the Vermont Economic Development Authority and its affiliates, or any federal credit unions, and other entities or agencies chartered under federal or state laws.

"Limited Common Elements" means a portion of the Common Elements allocated for the exclusive use of one or more, but less than all, of the Lots.

"Lot" means a Unit as defined in the Act, being a portion of the Property, other than the Common Elements, intended for individual ownership and use as permitted in this Declaration and as numbered and depicted as the Single Family Lots (Lots S1-S27), Carriage Home Lots (Lots 1C-28C) and Townhome Lots (Lots T1-T36) as numbered and depicted on the Plat. Each Lot shall contain one Dwelling only. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, membership in the Association. Each Lot shall for all purposes constitute real property which may be owned in fee simple and which may be conveyed, transferred, or encumbered in the same manner as any other real property.

"Open Space Parcels" means the eight (8) open space parcels designated on the Plat and on the Plans as: (i) Open Space Parcel 1, 4.09 Acres; (ii) Open Space Parcel 2, 0.31 Acres; (iii) Open Space Parcel 3, 17.92 Acres; (iv) Open Space Parcel 4, 0.53 Acres; (v) Open Space Parcel 5, 5.38 Acres; (vi) Open Space Parcel 6, 0.80 Acres; (vii) Open Space Parcel 7, 3.06 Acres; and (viii) Open Space Parcel 8, 0.75 Acres.

"Owner" means the Declarant or any other person who owns a Lot, but does not include a person having an interest in a Lot solely as security for an obligation. The Declarant is the owner of all Lots created by this Declaration until sold or conveyed to a third party.

"Planned Community" means Kwiniaska Ridge, a Common Interest Community in which portions of the real estate are designated for separate ownership by the Owners and the remainder of the real estate is designated for ownership by the Association.

"Plans" means the Plat and the following plans: "Fairway at Spear, Spear Street [now known as Kwiniaska Ridge], Shelburne, Vermont, Overall Site Plan," prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated June 1, 2017, last revised February 11, 2019 on file with the Town of Shelburne Zoning and Planning Office, along with seventeen (17) accompanying detail sheets, and the plan entitled: "Kwiniaska Ridge, Spear Street, Shelburne, Vermont, Collamer Court to Street 'A,' Cross-Country Sewer Plan," prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated July 5, 2018, last revised June 27, 2019, and recorded in Map Slide 900A of the Town of Shelburne Land Records.

"Property" means the real property, together with all appurtenant easements and any improvements located thereon, which is declared and subjected to this Declaration by incorporation in the description set forth in Exhibit A, as amended from time to time.

"Rules and Regulations" means the provisions and limitations promulgated from time to time by the Board of Directors governing the use of the Common Elements and Lots. A Rule is any policy, guideline, restriction, procedure, or regulation which is not set forth in the Declaration or Bylaws which governs conduct or the appearance of the Property.

"Unit" means a Unit as defined in the Act, being a portion of the Property, other than the Common Elements, intended for individual residential ownership and use as permitted in this Declaration. As used in this Declaration, each Lot shall be defined as a Unit and shall be deemed to be created and declared as of the date of this Declaration.

ARTICLE 2 **Planned Community Property**

Section 2.1. **Property**. The Property consists of all and the same lands and premises, together with improvements thereon, and all easements and rights appurtenant thereto, as described in Exhibit A and as depicted on the Plat and Plans.

Section 2.2. **Description of Planned Community**. As of the date hereof, the Declarant intends to develop the Property as a Planned Community consisting of ninety-one (91) Lots, of which Lots S1-S27 are Single Family Lots, Lots 1C-28C are Carriage Home Lots and are designed for use and occupancy by a carriage home on each building footprint lot, Lots T1-T36 are Townhome Lots and are designed for use and occupancy by an attached townhome on each building footprint lot, and eight (8) Open Space Parcels substantially as depicted on the Plat and Plans.

Section 2.3. **Lot Boundaries**. The perimeter boundaries of the Lots shall be the lot lines depicted on the Plat. The lower and upper boundary of each Lot shall be determined by common law principles for the fee simple ownership of real property. If any pipe, wire, conduit, culvert, or any other fixture lies partially within and partially outside the designated boundaries of a Lot, any portion serving only that Lot is a Limited Common Element allocated solely to that Lot, and any portion of it serving more than one Lot or any portion of the Common Elements is a part of the Common Elements.

Each Lot shall have the burdens and the benefits of the easements set forth in Article 5 herein.

ARTICLE 3 **Common Elements**

Section 3.1. Limited Common Elements.

- (a) A "**Limited Common Element**" is a portion of the Common Elements allocated for the exclusive use of one or more than one, but fewer than all, of the Lots.
- (b) All fixtures, improvements or driveways designated to serve, attached to, or adjacent to a Lot, but located outside the Lot's boundaries, are Limited Common Elements allocated exclusively to that Lot to which they are appurtenant. Except as otherwise provided herein, any expense for maintenance, repair or replacement relating to the Limited Common Elements shall be the responsibility of the Lot Owner benefiting from such Limited Common Element.
- (c) The Limited Common Elements for the Lots include any improvements located outside of the footprint lot shown on the Plat which serve only one Lot including, without limitation, driveways, walkways, patios, decks, yard areas, landscape beds, pipes, lines, ducts,

conduits, or other apparatus (including all gas, electricity, telephone, cable television, water, sewer, foundation walls, foundation drainage, or air conditioning pipes, lines, ducts, conduits, or other apparatus) serving only one Lot.

Section 3.2. Common Elements.

- (a) The “Common Elements” include the Limited Common Elements and consist of all the Property and the improvements thereon and appurtenances thereto described on Exhibit A and depicted on the Plat except the Lots.
- (b) Except as otherwise set forth herein as to the use of the Limited Common Elements, the Common Elements shall remain undivided and shall be devoted to the common use and enjoyment of all Owners. No Owner or any other person shall maintain any action for partition or division thereof, unless the Property has been removed from the provisions of this Declaration pursuant to the Act.
- (c) Each Owner shall have a right to use the Common Elements in accordance with the purposes for which they were intended without hindering or encroaching upon the lawful rights of other Owners. Use of the Common Elements shall be subject to the limitations set forth herein for use of the Limited Common Elements and to the Rules and Regulations regarding use thereof as shall be established from time to time by the Board.
- (d) The Common Elements include, without limitation:
 - (i) The following roadways/driveways: Caspian Lane, Elmore Street, Willoughby Lane and Carmi Drive until accepted by the Town of Shelburne as public roads.
 - (ii) The Open Space Parcels depicted on the Plat and Plans.
 - (iii) All easements, restrictions, and other encumbrances included with the Property as described in Exhibit A or depicted on the Plat and the Plans, including, without limitation, easements shown on the Plat and Plans for footing drains and stormwater pipes and the benefit of a sewer easement described in an Easement Deed from Elna N. Samuelsen to The Snyder Shelburne Properties, LLC dated November 1, 2019 and recorded in Volume 455 at Page 344 of the Town of Shelburne Land Records, as amended by Corrective Easement Deed dated December 30, 2019 and recorded in Volume 456 at Page 324 of the Town of Shelburne Land Records, until accepted by the Town of Shelburne and reference is made to the Easement Deed from Declarant to the Town of Shelburne dated December 27, 2019 and to be recorded in the Town of Shelburne Land Records to reconvey such sewer easement to the Town of Shelburne as a public sewer line.
 - (iv) Utility lines, equipment and other improvements serving the Property or serving more than one Lot, including, without limitation, footing drains and utility easements depicted as “20’ Wide Utility Easement to the Homeowners Association,” “15’ Wide Utility Easement to Homeowners Association” and “Typical Utility Easement to the Homeowners Association” on the Plat.
 - (v) All improvements located within or serving Property shown on the Plans, including pedestrian paths, water lines, sewer lines, sewer pumps, the stormwater drainage system located on the Property, including drains, catch basins, closed

lines and stormwater ponds, open lands, fences, trees, shrubs, landscaping, and other site improvements located on the Property, including the pedestrian path depicted on the Plat until accepted by the Town of Shelburne as a public path.

Section 3.3. **Allocated Interests**. Each Lot will be assigned one (1) of the ninety-one (91) memberships in the Association, meaning and intending to create an Allocated Interest of 1/91 for each Lot. Except as otherwise set forth herein for the redetermination of the Allocated Interests by Declarant upon the filing of an amendment to this Declaration to exercise Development Rights and/or Special Declarant Rights, the Allocated Interests shall be of a permanent character and may not be changed without the consent of all Owners. A Lot's Allocated Interest shall be determinative of all matters under the Act, this Declaration and the Bylaws which are properly determined by reference to the Allocated Interest, including, but not limited to the weight of each Owner's vote for Association purposes and the allocation of Common Expenses. In the event Declarant exercises its Development Rights to add Lots to the Planned Community, the Allocated Interests shall be redetermined so that each Lot's Allocated Interest shall be a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Lots declared in the Planned Community.

ARTICLE 4 **Occupancy and Use Restrictions**

Section 4.1. **Use of Lots**. Lots shall be used for residential purposes only, and no trade or business of any kind may be carried on therein, except home occupations allowed by municipal bylaws, and leases for residential purposes with a term of not less than six (6) months, and as otherwise provided in the Declaration and Bylaws.

The occupancy of each Lot is subject to and benefited by all easements, restrictions and permits of record, as depicted on the Plans, and described in Exhibit A.

Section 4.2. **Alteration of Lots**. An Owner may make improvements or alterations upon a Lot provided such improvements do not impair the Common Elements, Limited Common Elements, or infrastructure or utilities within any portion of the Planned Community, and provided prior written approval has been obtained by the Declarant or Board as provided below in Section 14.5. Other than the construction of Dwellings and related improvements on the Lots, no structural improvements may be made to the Common Elements, or any other portion of the Planned Community by any Owner without the prior written approval of the Board. No Lots may be further subdivided by Owners other than Declarant; provided, however, that a boundary adjustment between two adjacent Lots where no new or additional Lots are created shall not be deemed to be a "subdivision" within the meaning of this provision.

The boundaries between adjoining Lots may be relocated only in accordance with the terms and requirements of § 2-112 of the Act.

Section 4.3. **Declarant's Reservations**. Declarant reserves the right to use or maintain any portion of the Property as sales offices, management offices, models, and for signs until such time as the Declarant has conveyed title to all of the Lots to third party Owners. The Owners and the Association shall not interfere with Declarant's efforts to complete the improvements to the Property, including the construction of additional Dwellings or Lots, to market and sell Lots and Dwellings, or with Declarant's exercise of any Development Rights reserved in Article 13.

Section 4.4. **State and Municipal Laws**. Each Owner shall comply with all applicable permits, codes, laws, ordinances, rules, and regulations, of the State of Vermont and Town of Shelburne affecting the use of the Lots and the Common Elements.

Section 4.5. **Interference with Others.** No Lot shall be used or maintained in a manner which shall interfere with the comfort or convenience of occupants of other Lots or contrary to the Bylaws or the Rules and Regulations.

ARTICLE 5 **Easements**

Section 5.1. **Easement for Access.** Each Owner is hereby granted an easement, in common with Declarant and every other Owner, in all Common Elements for ingress and egress, including the Access Roads until accepted as municipal roadways, and all common driveways shown on the Plat, for utility service, and support, maintenance and repair of each Lot, subject to such reasonable Rules and Regulations of the Association. Each Lot is hereby benefited by an easement in common with others for ingress and egress through and over all Common Elements by persons lawfully using or entitled to the same. Such easements and rights are subject to the limitations upon the use of the Limited Common Elements as otherwise set forth herein.

Section 5.2. **Easement for Completion; Utilities.** Declarant, for itself, and its successors and assigns, reserves the right to grant and reserve easements and rights of way: (i) through, under, over and across the Common Elements and Lots owned by Declarant for the installation, maintenance, repair, replacement, and inspection of lines and appurtenances for public or private sewer, water, drainage, gas, electricity, telephone, television, and other utility services to the Lots; (ii) for the purpose of completing the construction of the Dwellings and other improvements on the Property; (iii) for the purpose of erecting, maintaining, and removing signs advertising Lots for sale or lease within the Property; and (iv) through, under, over and across the Common Elements and Lots for the maintenance, repair, replacement and inspection of the stormwater, water and sewer systems for the Property, which easements shall be for the benefit of the Association after the period of Declarant control described below in Section 9.5.

Section 5.3. **Easement for Support.** Each Lot and the Common Elements shall have an easement for lateral and subadjacent support from every other Lot and the Common Elements.

Section 5.4. **Additional Easements.** The Board of Directors of the Association shall have the power (without submitting the same to the Owners for approval) to authorize the appropriate officers of the Association to execute any and all easements as it may deem desirable for the benefit of the Planned Community over, under, above or through any of the Common Elements for such purposes and upon such terms as the Board, in its sole judgment, deems desirable; provided, however, that all such easements shall be subordinate to the liens and rights of all mortgages and deeds of trust recorded prior in time thereto unless the mortgagee or trustee shall join therein.

Section 5.5. **Upkeep.** Maintenance, repair and replacement of the Common Elements and of the Lots shall be as provided for in this Declaration, the Bylaws for the Association, and the Act. Each Owner shall afford to the Association and the other Owners, and to their agents or employees, access across his or her Lot reasonably necessary for those purposes. If damage is inflicted on the Common Elements or any Lot through which access is taken, the Owner responsible for the damage, or the Association if it is responsible, shall promptly repair such damage.

ARTICLE 6 **Damage or Destruction**

Section 6.1. **Duty to Restore**. Any portion of the Property for which insurance is required under 27A V.S.A. § 3-113, or for which insurance carried by the Association is in effect, whichever is more extensive, shall be repaired or replaced promptly by the Association unless:

- (a) The Planned Community is terminated, in which case § 2-118 of the Act shall apply;
- (b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or
- (c) Eighty percent (80%) of the Owners vote not to rebuild.

Section 6.2. **Cost**. The cost of repair or replacement in excess of insurance proceeds shall be a Common Expense.

Section 6.3. **Election Not to Rebuild**. If the entire Planned Community is not repaired or replaced:

- (a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Planned Community; and
- (b) Except to the extent that other persons will be distributees: (i) the insurance proceeds attributable to Limited Common Elements which are not rebuilt shall be distributed to the Owners of the Lots to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear in proportion to the Common Expense Liability of all of the Lots; and (ii) the remainder of the proceeds shall be distributed to all of the Owners or lienholders, as their interests may appear, in proportion to the Common Expense Liability of those Lots.

ARTICLE 7 **Termination; Condemnation**

Section 7.1. **Requirements for Termination**. The Planned Community may be terminated only by the recorded agreement of the Owners to which at least eighty percent (80%) of the votes in the Association are allocated and only in accordance with and subject to the provisions of § 2-118 and 2-124 of the Act.

Section 7.2. **Condemnation**. If all or a part of the Planned Community is taken by any power having the authority of eminent domain, all compensation and damages arising from such taking shall be payable in accordance with § 1-107 of the Act.

ARTICLE 8 **Insurance**

Section 8.1. **Casualty Insurance**. In order to ensure that sufficient reconstruction or repair funds, or both, will be available to the Association if and when needed, the Board shall obtain insurance for the Common Elements and the Limited Common Elements, together with separate insurance for the duplex Dwellings on the Townhome Lots on the Property, in such amounts as it shall determine, to provide not

less than one hundred percent (100%) of the current replacement value (exclusive of foundations, land, excavations, and other items that are normally excluded from such insurance coverage) in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall protect against fire and all other hazards or perils customarily covered and the proceeds of such insurance shall be used only for the repair, replacement and reconstruction of the Common Elements unless determined otherwise in accordance with Article 6. The Board may elect such endorsements and deductible provisions as are, in its judgment, consistent with good business practice and the purpose for which the insurance is bought. Any such policy shall provide that it cannot be canceled or substantially changed, except upon at least ten (10) days' written notice to the insured. The insurance for the duplex Dwellings on the Townhome Lots shall be exterior building structure insurance (master insurance policy) with an "all in" endorsement that shall insure all portions of the duplex Dwellings located from the sheetrock of the Dwellings outward to the exterior of the building, including, without limitation, sheetrock, interior partitions, studs, plumbing and electrical fixtures, roofing, siding, insulation and all portions of the Dwellings not included in the "interior portions" described below in Section 8.6. The cost of the separate insurance for the duplex Dwellings on the Townhome Lots shall be separately assessed against the thirty-six (36) Owners of the Townhome Lots.

Section 8.2. **Liability Insurance**. The Board of the Association shall also purchase broad form comprehensive liability coverage in such amounts and in such forms as prudent management practice suggests. A policy shall provide that it cannot be canceled or substantially changed, except upon at least ten (10) days' written notice to the insured.

Section 8.3. **Other Provisions**. Insurance policies carried pursuant to this Section shall provide that:

- (a) Each Owner is an insured person under the policy to the extent of liability, if any, arising out of his or her interest in the Common Elements or membership in the Association.
- (b) The insurer waives its rights to subrogation under the policy against any Owner or member of his or her household.
- (c) No act or Omission by any Owner, unless acting within the scope of his or her authority on behalf of the Association will void the policy or be a condition to recovery under the policy.
- (d) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

Section 8.4. **Fidelity Coverage**. The Association may obtain fidelity coverage against dishonest acts on the part of the Board, managers, employees and volunteers responsible for handling funds belonging to or administered by the Association in such amounts and in such forms as prudent association management practices suggest. Any such policy shall provide that it cannot be canceled or substantially changed, except upon at least ten (10) days' written notice to the insured.

Section 8.5. **Premiums**. Premiums and expenses for all insurance and fidelity coverage purchased by the Association shall be Common Expenses, except that the separate insurance for the duplex Dwellings on the Townhome Lots shall be separately assessed solely against the thirty-six (36) Owners of the Townhome Lots. Where insurance premiums are increased as a result of increased risk attributable to a particular Lot, the Owner of the Lot at issue shall be responsible for the increase, based upon the insurance

carrier's appraisal of risk inherent to said Lot. A levy made against a Lot for an increase in premiums may be enforced in the same manner as Common Expenses.

Section 8.6. Separate Insurance. The Owner of each Lot (other than Townhome Lots) shall be responsible for obtaining, at his or her own expense, separate casualty and liability insurance for his or her own Lot and the Dwelling constructed thereon. The Owner of each duplex Dwelling on the Townhome Lots shall be responsible for obtaining, at his or her own expense, any additional insurance for interior portions of his or her own Dwelling not covered by the master insurance policy for the Townhome Lots. No insurance purchased by the Association shall in any way prejudice the right of each Owner of a Lot to obtain insurance for his or her own Lot and the Dwelling thereon for his or her own benefit, nor shall the insurance purchased by the Owner prejudice the Association's rights and protection under policies purchased by the Association under this Declaration. All such separate policies of insurance obtained by an Owner of a Lot shall contain a waiver of subrogation if available.

Section 8.7. Adjustment; Insurance Trustee. Any loss covered by the property policy shall be adjusted with the Association but the proceeds for that loss are payable to any insurance trustee designated in the policy for that purpose, or otherwise to the Association, in either case to be held in trust for the Association each Owner and such Owner's mortgagee, as their interests may appear.

ARTICLE 9 **The Association**

Section 9.1. Authority. The business affairs of the Planned Community shall be managed by the Association. The Association shall be governed by the Bylaws, a copy of which is attached as Exhibit B, as they may be amended from time to time. The Association shall adopt and may amend the Bylaws and the Association may adopt and amend Rules and Regulations.

Section 9.2. Membership.

- (a) Each Owner shall be assigned one appurtenant and indivisible membership in the Association which may not be assigned, hypothecated, pledged or transferred in any manner except as an indivisible appurtenance to the Lot. Multiple or joint Owners of a single Lot shall be treated for all purposes as jointly owning and holding the one membership appurtenant to that particular Lot.
- (b) A membership appurtenant to a Lot shall be initiated by either: (i) the recording of a deed in the Town of Shelburne Land Records conveying a Lot to a purchaser; or (ii) the issuance of a certificate of occupancy by the Town of Shelburne for a Dwelling constructed on a Lot, whichever sooner occurs. Once a membership is initiated, liability for Common Expenses shall automatically commence. Membership in the Association shall be owned and held by each Owner, including the Declarant, with respect to unsold Lots.
- (c) The number of memberships in the Association shall automatically increase if additional Lots are declared and subjected to this Declaration. No membership rights or liability for Common Expenses shall be allocated or attributed to a Lot until the Lot is either sold by Declarant to a third party or has been issued a certificate of occupancy.
- (d) Liability for Common Expenses shall be assessed among the Owners in accordance with their Allocated Interest, unless altered as hereinafter set forth in Section 9.6.

Section 9.3. **Voting Rights.** Initially, there shall be two classes of membership in the Association voting memberships and non-voting memberships. A voting membership shall be any membership owned and held by Declarant. A non-voting membership shall be any membership owned and held by any Owner other than Declarant. All memberships in the Association shall automatically become voting memberships: (i) sixty (60) days after the sale by Declarant of three-fourths ($\frac{3}{4}$ ths) of the proposed ninety-one (91) Lots in the Planned Community; (ii) two (2) years after the Declarant has ceased to offer Lots for sale in the ordinary course of business; (iii) two (2) years after the exercise of any Development Rights to add new Lots; or (iv) upon Declarant amending the Bylaws to make all memberships voting memberships, whichever is the first to occur. Thereafter only one class of voting membership shall exist. Notwithstanding the foregoing, non-voting memberships shall be entitled to vote on those matters, identified in the Act, upon which Owners may vote during the period of Declarant control.

When a membership is a voting membership, each Owner, or one of the Owners if record title in a Lot is held by more than one person, shall be entitled to vote in any meeting of the membership.

Section 9.4. **Board of Directors.** The initial Board of the Association shall be three (3) in number and shall be appointed by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant, so long as the Declarant retains control of the Association. Notwithstanding the foregoing, at least twenty-five percent (25%) of the members of the Board shall be elected by Owners who are not the Declarant within sixty (60) days after twenty-five percent (25%) of the Lots are conveyed to Owners (other than the Declarant). At least thirty-three and one third percent (33%) of the members of the Board shall be elected by Owners who are not the Declarant within sixty (60) days after fifty percent (50%) of the Lots are conveyed to Owners (other than the Declarant). After the period of Declarant control (described below), each member of the Board shall be an Owner of a Lot.

Section 9.5. **Declarant Control.** The Declarant will convey to the Association marketable title to the Common Elements by standard Warranty Deed(s) and/or Easement Deed(s) for One Dollar (\$1.00), and the Association will accept said title. Said conveyances of title (and the transfer of control of the Association which may or may not be made at the same time) shall be made: (i) sixty (60) days after the sale by Declarant of three-fourths ($\frac{3}{4}$ ths) of the proposed ninety-one (91) Lots in the Planned Community; (ii) two (2) years after the Declarant have ceased to offer Lots for sale in the ordinary course of business; (iii) two (2) years after the exercise of any Development Rights to add new Lots; or (iv) voluntary relinquishment in writing by the Declarant (subject to the reserved rights set forth in Section 3-103(d) of the Act), whichever is the first to occur. As long as Declarant retains control of the Association, no person may record any declaration or amendment to this Declaration or similar instrument affecting any portion of the Planned Community without Declarant's written consent thereto, and any attempted recording without compliance herewith shall result in such or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

Section 9.6. **Miscellaneous.** In addition to any other powers and authority given the Association or the Board in the Bylaws or in this Declaration:

- (a) Common Expenses of the Association shall be borne among the Owners of the Lots in accordance with their Allocated Interest, except that the Board may allocate expenses among the Lots on a different basis if the basis is reasonably related to the benefits of the services provided. In addition, the allocation of expenses to Lots constructed and owned by Declarant, but not occupied, may be less than Assessments allocated to Lots which have been conveyed to persons other than Declarant.
- (b) The Board may enter into a management agreement to operate the affairs of the Association until such time as all memberships in the Association become voting memberships. Within

two (2) years after all memberships become voting memberships, any management agreement, maintenance, operations or employment agreement entered into by Declarant may be terminated by the Association without cause upon giving ninety (90) days' notice; provided, however, that any such agreement that is unconscionable or was not bona fide may be terminated on ninety (90) days' notice before the expiration of the two year period. In the event of a conflict between the above provisions and any requirements imposed by Institutional Mortgagees, the requirements of the Institutional Mortgagees shall control.

- (c) The Association shall maintain current copies of this Declaration, their Bylaws, and any Rules and Regulations concerning the Planned Community, as well as its own books, records and financial statements. These will be available for inspection by Owners or First Mortgagees.

ARTICLE 10 **Assessment and Collection of Common Expenses**

Section 10.1. **Definition of Common Expenses**. Common Expenses shall include:

- (a) Expenses of administration, maintenance, and repair or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Board or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association; and
- (d) Such reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 10.2. **Assessment and Apportionment of Common Expenses**. Except as provided in Sections 9.6 and 10.3, all Common Expenses shall be assessed against all Lots in accordance with their Allocated Interest in the Common Expenses as set forth in this Declaration. If the Common Expense Liability is modified due to a redetermination of the Allocated Interests, any Assessments for Common Expenses not yet due shall be recalculated in accordance with the modified Common Expense Liability.

Section 10.3. **Common Expenses Attributable to Fewer than all Owners**. The following expenses may be assessed against less than all of the Owners:

- (a) Any Common Expense for services provided by the Association to an individual Owners at the request of the Owner shall be assessed against the Lot which benefits from such service.
- (b) Any insurance premium increase attributable to a particular Lot by virtue of activities or construction of the Lot shall be assessed against that Lot.
- (c) Assessments to pay a judgment against the Association may be made only against the Lots in the Common Interest Community at the time the judgment was rendered, in proportion to their Common Expense Liabilities.
- (d) Any Common Expense arising from the misconduct of an Owner.

- (e) Fees, charges, late charges, fines and interest charged against an Owner pursuant to the Declaration, the Bylaws, the Rules and Regulations of the Association, and the Act are enforceable as Common Expense assessments.
- (f) Any expense incurred by the Board and/or the Association on behalf of an Owner or as a result of an Owner's failure to perform any of the obligations under Section 11.2(c) hereof is a Common Expense.
- (g) Any common expense benefiting fewer than all of the Lots or their Owners may be assessed exclusively against the Lots or Lot Owners benefited.

Section 10.4. Lien. The Association shall have a statutory lien on a Lot in accordance with and subject to the requirements of § 3-116 of the Act for any Assessment imposed against an Owner.

Section 10.5. Budget Adoption and Ratification. The budget for the Association shall be adopted pursuant to the procedures set forth in Article 5 of the Bylaws.

Section 10.6. Certificate of Payment of Common Expense Assessments. The Association on written request shall furnish to an Owner a statement in recordable form setting forth the amount of unpaid assessments against the Lot and any other matters required by § 4-109 of the Act. The statement shall be furnished within ten (10) days after receipt of the request and is binding on the Association, the Board of Directors and every Owner.

Section 10.7. Payment of Common Expenses. All Common Expenses assessed under Sections 10.2 and 10.3 shall be due and payable as determined by the Board of Directors. Any past due payments shall accrue interest at the legal rate of twelve percent (12%) per annum.

ARTICLE 11 **Maintenance**

Section 11.1. Maintenance of Common Elements. The Association shall maintain and keep in good repair at all times the Common Elements, including, without limitation, the Open Space Parcels, the Access Roads (until accepted by the municipality), pedestrian paths (until accepted by the municipality), water lines, sewer lines, sewer pumps, the stormwater drainage system including stormwater ponds, lighting, landscaping, utility lines and facilities, and including the Limited Common Elements (other than those facilities and improvements located within a public right of way), except for such maintenance of the Limited Common Elements as the Board of Directors shall, from time to time, delegate to the Lot Owners appurtenant thereto.

The maintenance shall be performed in a professional manner customary to the respective trade. In addition, the Association shall have the right, but not the obligation, to maintain property not owned by the Association where the Board has determined that such maintenance would benefit the Owners and the Association shall have the obligation to maintain such property not owned by the Association as required by any permit or approval of the Planned Community by any governmental agency.

Section 11.2. Maintenance of Lots

- (a) Each Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Lot and the Dwelling thereon in good repair. Such maintenance shall be consistent with this Declaration. In addition, each Owner shall be responsible for paying the real estate taxes assessed against the Lot, for insuring the Lot and all improvements

thereon, and for maintaining all private electricity, telephone, cable television, and water lines or systems, sewer systems, tanks, pumps, pipes, lines, ducts, conduits, or other apparatus which serve only the Lot. However, the Board may, by rule, decide to maintain any portion of the Lots.

- (b) In addition, each Owner of a Carriage Home Lot or Townhome Lot shall be responsible for maintaining, repairing and replacing any driveway, walkway, patio or deck located outside a Carriage Home Lot or Townhome Lot which serves only the Owner's Lot and all landscape plantings located within the Lot or surrounding decks or patios. All other landscaping located within the Common Elements shall be maintained, repaired and replaced by the Association. In addition, in the event a Unit Owner of a Carriage Home Lot or Townhome Lot obtains approval under Section 14.5 to install a fence around their rear yard area, the area within such fences shall be a Limited Common Element appurtenant to the respective Unit and the Unit Owner shall be responsible for maintaining the fence and the area within the fence, with the exception of the lawn that will be mowed by the Association's landscaping contractor as long as the Owner maintains a gate that is at least 52" wide to allow access for the mowers, it being the intention that the Owner will be responsible for all other items located within the fenced area, such as flower beds.
- (c) In the event that an Owner should fail to perform any obligation required in subsection (a) and (b) hereof as may be determined by the Board, then the Board may provide for the performance of any such neglected obligation by whatever reasonable means it may determine in its sole discretion. In case of emergency as determined by the Board, it may act immediately; and in all other cases the Board may act hereunder following thirty (30) days written notice to the Owner. All expenses incurred by the Association as a result of taking action under this section shall be chargeable to the Owner as provided for under Sections 9.6 and 10.3 hereof.

In addition, the Owner of each attached Dwelling on a Townhome Lot shall be responsible for paying a pro rata portion of the maintenance, repair and replacement costs for all shared party walls, roofs, siding or other shared construction elements that are shared with any other Dwellings that are attached to the Owner's Dwelling. Each Townhome Lot Owner's pro rata share of such costs shall be a fraction, the numerator of which shall be one (1) and the denominator of which shall be the number of attached Dwellings forming a single building. For example, if a Townhome Lot Owner's Dwelling is part of an attached structure containing a total of two (2) attached Dwellings, the Townhome Lot Owner shall be responsible for one-half ($\frac{1}{2}$) of the costs to maintain any shared party walls, roofs, siding or other shared construction elements to the extent not covered by the Association maintenance described above.

ARTICLE 12

Compliance and Default

Section 12.1. **Compliance.** Each Owner shall be governed by and with, all of the provisions of this Declaration, the Bylaws, any Rules and Regulations established by the Board of Directors of the Association, as the same may be amended from time, and the Act. In addition to the remedies provided by the Act, the Declaration, or the Bylaws, the failure of an Owner to comply with any of said requirements shall entitle the Association acting through its Board of Directors or through its agent or an aggrieved Owner, to the following relief after appropriate notice to the defaulting Owner:

- (a) **Liability.** An Owner shall be liable for the expenses of any maintenance, repair, or replacement rendered by the Owner's gross negligence or by that of any invitee or guest, even if the Association maintains insurance for such damage. No Owner shall conduct any activity which may result in an increase in insurance rates occasioned by use, misuse, occupancy, or abandonment of a Lot or its appurtenances, or of the Common Elements.
- (b) **Fines/Suspension.** The Board of Directors of the Association shall have the right to impose upon a defaulting Owner a reasonable fine, commensurate with the severity of the violation of any of the provisions of the above-referenced documents, which fine shall become a continuing lien against the Lot of the defaulting Owner enforceable in the manner provided by the Act and the Bylaws. In addition, the Association may suspend the right or privilege of a Unit Owner who fails to pay an Assessment, but in so doing the Association may not deny a Unit Owner the right to occupy their Unit, suspend the Unit Owner's right to vote, prevent the Unit Owner from seeking election to the Board, or withhold services to the Unit Owner if the effect would be to endanger the health, safety or property of any person.
- (c) **Injunctions.** The Board of the Association or any aggrieved Owner shall have the right or remedy by appropriate legal proceedings, either at law or in equity, to abate or enjoin the continuance of any violation of the provisions of the above-referenced documents, including, without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any combination thereof, and any other relief afforded by a court of competent jurisdiction. Such remedies shall be deemed cumulative and shall not constitute an election of remedies. The failure of the Association or its Board to enforce any rights, covenants, or conditions of the Planned Community shall not constitute a waiver of the right to enforce such rights, covenants, or conditions in the future. There shall be and there hereby is created and declared to be, a conclusive presumption that any violation or breach, or any attempted violation or breach, of any of the covenants and restrictions of the Declaration or Bylaws shall so damage the Planned Community and its property values that it cannot be adequately remedied by action at law or exclusively by recovery of damages.
- (d) **Costs and Attorneys' Fees.** In any proceeding of an alleged failure of an Owner to comply with the terms of this Declaration, the Bylaws, or the Rules and Regulations of the Association, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

Section 12.2. **Rights of Owners.** Each Owner shall have a right of action against the Association for failure of the Association to comply with the provisions of this Declaration, the Bylaws, the Rules and Regulations of the Association, or the decisions made by the Association; provided, however, that the Association shall have the right to use its discretion regarding an enforcement action pursuant to the provisions of Section 3-102(g) of the Act.

Section 12.3. **Waiver.** No provision of this Declaration shall be deemed to have been waived by reason of any failure to enforce regardless of the occurrence of violations or breaches from time to time.

ARTICLE 13 **Declarant's Reserved Development Rights**

Section 13.1. **Easement for Completion.** For as long as the Declarant owns any interest in the Property including reserved development rights, the Declarant hereby reserves for itself and its successors

and assigns, easements, rights of way, and licenses, and the right to grant easements, rights of ways and licenses to others, over, under, across and through all of the Property (other than Lots which have been sold by Declarant to Owners) for the purpose of: (i) completing the improvements to the Property described in this Declaration, including Dwellings, roads, driveways, sewer, water and other utility lines, stormwater drainage systems, sidewalks, fences, trees, shrubs, landscaping, equipment and improvements, and for the purpose of sales activities, such as erecting signs advertising the Planned Community or the sale of Lots within the Planned Community; (ii) providing utility service to the Property; (iii) compliance with permits, laws, rules, regulations, ordinances and other governmental requirements; or (iv) exercising development rights reserved herein.

Section 13.2. Alteration of Lots. Declarant reserves the right to alter the layout and arrangement of the Lots, said right to last as long as the Declarant controls the Association or owns any of the Lots so altered. If Declarant shall make any such alterations, they shall be reflected in an amendment to this Declaration. The Declarant may make any structural alterations within or affecting any Lot, so long as Declarant owns said Lot, without the prior written consent of the Board.

Section 13.3. Amendment to Modify or Enlarge Planned Community. For so long as the Declarant owns any interest in the Property including reserved development rights, the Declarant reserves for itself and its successors and assigns, the absolute right, which may be exercised at any time or from time to time in the Declarant's sole discretion, to develop and improve all of the Property. The location and configuration of the Lots proposed for the Property on the Plat and Plans may be modified by the Declarant in its sole discretion. Declarant also reserves the right, in its sole discretion, at any time or from time to time to amend this Declaration to complete the Planned Community or to subject additional property to this Declaration. Declarant's reserved development rights shall be exercised within fifteen (15) years after the transfer of Declarant control as described above in Section 9.5.

Section 13.4. Easement for Further Development. For so long as the Declarant owns any interest in the Property including reserved development rights, the Declarant hereby reserves for itself and its successors and assigns, without restriction or limitation, perpetual non-exclusive easements, rights of way, and licenses, and the right to grant easements, rights of way and licenses, over, under, across and through all of the Property (other than Lots which have been sold by Declarant to Owners) for the purpose of storing building materials and supplies and equipment used in improving the Property; construction, maintenance, repair, replacement of Dwellings, roads, driveways, pedestrian paths, fences, trees, shrubs, landscaping, utility lines, equipment and other improvements included as part or necessary to serve the portion of the Property being developed by Declarant and any Dwellings located thereon; making future connections, hookups, and tie-ins to utility lines, equipment, and other improvements constructed to serve the Property, the Dwellings, or other improvements located thereon. The easements, rights of way and licenses reserved hereunder shall be sufficient in scope to permit development, use and occupancy on the Property of as many Dwellings and Lots as the Declarant in its sole discretion shall determine; provided, however, that the Declarant will not build more than one hundred nine (109) Dwellings and/or Lots on the Property.

Section 13.5. Permits and Approvals for Further Development. Each Owner acknowledges, by acceptance of a Warranty Deed, that the Declarant has the present right to develop ninety-one (91) Lots containing one (1) Dwelling each and additional amenities within the Open Space Parcels. Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Development Rights or Special Declarant Rights without the prior written consent of the Declarant, nor shall the Association or any Owner oppose, either directly or indirectly, such development and shall cooperate or cause the Association to cooperate with such development by executing permit applications if necessary.

Section 13.6. **Amendments Under this Article.** Any amendment to this Declaration permitted by this Article need be signed and acknowledged only by the Declarant, and it shall be deemed that the Association, Owners, lienholders or mortgage holders have voted for such amendment or amendments. In addition, prior to the sale of any Lots, the Declarant may make whatever amendment Declarant deems advisable, in Declarant's sole discretion, without the consent of any person.

Section 13.7. **Transfer of Declarant's Development Rights.** Declarant's reserved Development Rights may be transferred in accordance with § 3-104 of the Act. No amendment to this Declaration may be made to diminish or alter the Declarant's reserved Development Rights and/or Special Declarant Rights without the written consent of Declarant.

Section 13.8. **Reserved Rights Relating to Open Space Parcel 3.** For so long as the Declarant owns any interest in the Property, the Declarant hereby reserves for itself and its successors and assigns, without restriction or limitation, the right to convey "Open Space Parcel 3, 17.92 AC" as more fully described and shown on the Plat to either the Association, a non-profit land trust or to the Town of Shelburne subject to the terms and conditions of the Open Space Agreement between the Declarant and the Town of Shelburne.

ARTICLE 14 **Covenants and Environmental Restrictions**

Section 14.1. **Use of Property Subject to Permits.** The Property may be used and conveyed only in accordance with the conditions of the Vermont Land Use Permit and the Town of Shelburne final plat approval for the development of the Property, and the permits and approvals referenced therein; all protective covenants and easements and rights of way for utilities of record; and as all of the foregoing may be amended from time to time and as set forth on Exhibit A.

Section 14.2. **Promulgation of Rules and Regulations.** The Board of Directors may, from time to time, promulgate, modify, or delete use restrictions and Rules and Regulations applicable to the Lots and the Common Elements pursuant to the requirements of Section 5.6 of the Bylaws. The Association, acting through the Board, shall have standing and the power to enforce such standards.

Section 14.3. **Use.** Only one residential Dwelling, and improvements appurtenant thereto, shall be erected or maintained on each Lot.

Section 14.4. **Animals.** No animals shall be permitted on the Property other than dogs and other domestic pets. All dogs and other domestic pets shall be in the control of the Owner at all times while on the Property. Owners are responsible for immediate cleanup of any waste in the public thoroughfares and/or damage to Common Elements. Owners are also responsible for all impoundment costs incurred in the control of dogs or other domestic animals while on the Common Elements. In addition, Owners are subject to the animal control ordinances of the Town of Shelburne.

Section 14.5. **Architectural Control.** Pursuant to Sections 2-105(a)(15), 3-103 and 3-106 of the Act, except for Dwellings or improvements constructed or installed by the Declarant, no building, fence, wall or other structure shall be commenced, erected, maintained or placed on a Lot, nor shall any addition or external alteration be made, until the design and location or alterations have been approved in writing by the Declarant or, upon transfer of Declarant's control of the Association, by the Board. No approval shall be required for the design and location of any Dwelling or improvement constructed by Declarant on the Property. Any Owner seeking approval under this Section shall provide the Declarant or Board, as the case may be, with a written request for approval which shall include a narrative description and site plan or drawing depicting the proposed improvement or improvements. The Declarant or Board, as the case may be, shall approve or deny a written request for approval within thirty (30) days after receipt and, in the event

the Declarant or Board fail to issue a decision within said thirty (30) day period, the written request for approval shall be deemed to be approved. Notwithstanding the foregoing, this section shall not preclude the installation solar collectors on the roof of a Dwelling provided that: (a) such roof has an orientation to the south or within 45 east or west of due south; and (b) the solar collectors are flush with the roof shingles.

Section 14.6. **Signs**. No signs, signboards or advertising structures of any kind shall be erected or placed on a Lot at any time except for signs advertising the Lot for sale.

Section 14.7. **Rubbish**. There shall be no disposal of trash, rubbish or garbage or the burning of same on any Lot.

Section 14.8. **Grading and Drainage**. The grading and/or drainage patterns of any Lot in the Planned Community shall not be altered for any reason due to each Lot's necessary conformance with the plans submitted and approved by the Town of Shelburne and the District #4 Environmental Commission.

Section 14.9. **Satellite Dishes**. No antennas shall be installed on a Lot or on the exterior of any Dwelling erected thereon. One dish type receiver, no greater than 18" in diameter or length, may be installed on the side or rear exterior wall of any Dwelling or in the rear or side yard of the Lot except where a side yard has frontage on a public street.

Section 14.10. **Vehicles and Garage Use**. Garages are restricted to use by the Lots for which they belong as a parking space for vehicles. Garages may not be converted to living space. No unregistered motor vehicle, or any boat, boat trailer, snowmobile, snowmobile trailer, camper, truck (other than pick-up trucks), or recreational vehicle may be parked, stored, or maintained on any portion of the Property. The parking of motor vehicles in other spaces which have not been designated for parking shall be strictly prohibited.

Section 14.11. **Trees**. Except for trees removed by Declarant, no tree six (6") inches or larger on the stump shall be cut on the Property until approved in writing by the Declarant or, after Declarant transfers control to the Association, by the Board of Directors. In addition, no trees shall be cut on the Open Space Parcels, unless such trees are dead or dying and are a safety concern.

Section 14.12. **Lighting**. Except for seasonal decorative lights, all exterior lights must be installed and used in a manner which will not unduly disturb surrounding Lot Owners, do not violate any permit conditions and must be pre-approved by the Board of Directors.

Section 14.13. **On-Site Fuel Storage**. No on-site storage of gasoline, heating, or other fuels shall be permitted on any part of the Property, except for propane, and not more than ten (10) gallons of other fuel stored on each Lot for emergency purposes and operation of generators, snow blowers, lawn mowers and similar tools or equipment.

Section 14.14. **Outbuildings**. No structures of a temporary character, tents, shacks, barns, trailers, garages, unfinished basements, or other outbuildings shall be occupied as living quarters on the Property.

Section 14.15. **Occupants Bound**. All provisions of the Declaration and any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Lot Owners and which provide for sanctions against Lot Owners shall also apply to all occupants of the Property.

Section 14.16. **Leasing**. Lots may be leased for residential purposes. All leases shall have a minimum term of six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions, and Rules and Regulations of the Association.

The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may, in the event the Lot Owner shall fail to initiate and reasonably maintain an action to evict the tenant after written request to do so by the Association evict the tenant on behalf of the Lot Owner and specifically assess all costs associated therewith against the Lot Owner and the Lot Owner's property.

Section 14.17. Energy Conservation Measures.

- (a) Without the prior written consent of the Vermont District #4 Environmental Commission, or its successor, no alteration may be made to any Dwelling which would reduce the effect of the water-conserving plumbing fixtures or insulation, including low-flush toilets, low-flow showerheads, and aerator or flow-restricted faucets. All leases shall require maintenance of same and prohibit replacement with non-water conserving fixtures.
- (b) All heated structures shall be constructed to meet the Residential Building Energy Standards (RBES) in effect at the time of construction. The installation and/or use of electric resistance space heating is specifically prohibited.

Section 14.18. Landscaping. The Association shall continually maintain all Common Elements, facilities, and landscaping substantially as approved by the Town of Shelburne Development Review Board and the District #4 Environmental Commission. All dead or diseased landscape plantings shall be replaced as soon as seasonably possible.

Section 14.19. Special Covenants. The following special covenants shall apply:

- (a) The Declarant will construct the stormwater treatment system on the Property in accordance with the approved plans and permit conditions. After construction, the stormwater treatment system and offset project shall be maintained, repaired and replaced by the Association and by accepting a Deed for a Lot, each Lot Owner shall consent to the Association's responsibility for such obligations. After construction, the Declarant shall have no further obligations for the maintenance, repair or replacement of the stormwater systems, except for construction defects occurring prior to the delivery of the systems to the Association.
- (b) Fertilizer use on lawns shall be limited and shall only be allowed after a soil test, with the fertilizer application tailored to address any nutrient deficiencies.
- (c) Notice is hereby given that the Association will agree in the future to make the open space area available irrevocably and in perpetuity for agricultural purposes with access to such open space over the roadways depicted on the Plat. These agricultural uses may include, without limitation, plowing, planting, fertilizing and the use of agricultural chemical, pesticides and herbicides in the course of cultivating, harvesting, storing and transporting agricultural feed or product. Consistent with this notice, all Lots are conveyed subject to a perpetual easement for any noise, odors, dust and/or byproducts and impacts that may occur in the course of conducting accepted agricultural and best-management practices on the nearby lands, including Open Space Parcels for any noise, odors, dust, mud or slowing of traffic on the project roadways by agricultural vehicles. All Lot Owners, by the acceptance of their deed, waive any objection to impacts arising from accepted agricultural and best-management practices which are consistent with the rules established pursuant to 6 V.S.A., Ch. 215 and are further notified that agricultural activities which are consistent with accepted agricultural and best-management practices do not constitute a nuisance.

- (e) "Open Space Parcel 3, 17.92 AC" as more fully described and shown on the Plat will be remain open space in perpetuity and shall be owned and maintained by the Association as described above in Sections 3.2(d) and 11.1, unless otherwise conveyed to a non-profit land trust or the Town of Shelburne as set forth in Section 13.8 of this Declaration, and subject to the terms and conditions of the Open Space Agreement between the Declarant and the Town of Shelburne.

Section 14.20. **Amendments**. No amendment of Section 14.11, 14.17, 14.18 or 14.19 of this Article shall be effective without the prior written consent of the Vermont District #4 Environmental Commission and the Town of Shelburne Development Review Board.

ARTICLE 15 **Amendments**

Section 15.1. **General**. Except for amendments which may be made by the Declarant hereunder and in § 2-109(f) or § 2-110 of the Act, amendments by the Association under §§ 2-106(d), 2-108(c), or 2-112(a) of the Act, or by Owners under §§ 2-108(b), 2-112(a) or 2-118(b) of the Act, and except for the limitations set forth in § 2-117(d) of the Act, and except for specific amendments requiring a specified percentage of votes, this Declaration may be amended by vote or agreement of Lot Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association is allocated. All amendments to this Declaration shall be made in accordance with § 2-117 of the Act. If a provision in this Declaration requires the approval of a third party as a condition of effectiveness, the amendment is not valid without that approval.

Section 15.2. **Rights Reserved in Declarant**. Notwithstanding the amendment provisions set forth above in Section 15.1, the Declarant may unilaterally amend this Declaration in accordance with the provisions of Article 13, and may also unilaterally amend this Declaration at any time to satisfy and meet any requirement of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Environmental Court, the Town of Shelburne, or a title insurance company insuring or offering to insure all or a portion of the Property.

Section 15.3. **Special Declarant Rights**. The Provisions in this Declaration creating Development Rights and Special Declarant Rights may not be amended without the consent of the Declarant.

Section 15.4. **Consent of Mortgage Holders**. Amendments are subject to the consent requirements of Article 16.

ARTICLE 16 **Rights Related to Mortgages**

Section 16.1. **Notice of Action**. Upon written request to the Association from any Institutional Mortgagee, identifying its name and address and the Lot number or address, such Institutional Mortgagee shall be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects any material portion of the Planned Community or any Lot on which there is a first mortgage held, insured or guaranteed by such qualified requesting party;
- (b) any delinquency in the payment of Assessments or other charges by an Owner subject to a first mortgage held or insured by such party, which delinquency remains uncured for a period of sixty (60) days;

- (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of Institutional Mortgagees.

Section 16.2. Special Voting Rights of Institutional Mortgagees. Any action with respect to the Planned Community including, but not limited to, material amendment to this Declaration, restoration or repair after partial or total condemnation or casualty loss, or termination of the legal status of the Planned Community under the Declaration, requiring the votes of the Owners shall also require the consent of Institutional Mortgagees holding mortgages on Lots which represent at least fifty-one percent (51%) of the mortgages of Institutional Mortgagees in the Planned Community; provided, however, that in the case of a termination of the Planned Community not made as a result of destruction, damage or condemnation, the applicable percentage shall be sixty-seven percent (67%) instead of fifty-one percent (51%). For purposes of this Section, a “material amendment” includes, but is not limited to, any provision affecting:

- (a) Assessments, assessment liens, or subordination of assessment liens;
- (b) Voting rights;
- (c) Reserves for maintenance, repair and replacement of Common Elements;
- (d) Responsibility for maintenance and repairs;
- (e) Reallocation of interests in the Common Elements or Limited Common Elements (other than reallocation in connection with the exercise of Declarant’s Development Rights) except that when Limited Common Elements are reallocated by agreement between Owners, only those Owners and only the Institutional Mortgagees which hold mortgages on such Lots must approve such action;
- (f) Rights to use Common Elements and Limited Common Elements;
- (g) Boundaries of Lots except that when boundaries of only adjoining Lots are involved, then only those Owners and the Institutional Mortgagees holding mortgages on such Lot must approve such action;
- (h) Convertibility of Lots into Common Elements or Common Elements into Lots;
- (i) Expansion or contraction of the Planned Community, or the addition, annexation or withdrawal of property to or from the Planned Community, except as otherwise reserved by Declarant in Article 13 or other than as specified in the Declaration;
- (j) Insurance or fidelity bonds;
- (k) Leasing of Lots;
- (l) Imposition of restrictions on an Owner’s right to sell or transfer his or her Lot;
- (m) Restoration or repair of the Planned Community after a hazard damage or partial condemnation in a manner other than that specified in the Declaration;

- (n) Termination of the Planned Community after occurrence of substantial destruction or condemnation; and
- (o) Any provision that expressly benefits mortgage holders, insurers or grantors.

Section 16.3. **Failure to Provide Negative Responses.** For the purposes of Section 16.2 above, an Institutional Mortgagee who receives a written request to approve action in accordance with Section 16.2, delivered by certified or registered mail, return receipt requested, shall be deemed to have consented to such action unless said Mortgagee provides a negative response to the Association within sixty (60) days of the date of receipt by the Mortgagee of the written request; provided, however, that the 60 day waiver rule shall not apply to an amendment that affects the priority of the lender's security or their ability to foreclose, and for such amendments, the lender's consent is required.

ARTICLE 17 **Miscellaneous**

Section 17.1. **Invalidity.** If any provision of this Declaration is held invalid, the invalidity thereof shall not affect other provisions of this Declaration which can be given effect without the invalid provisions and to this end the provisions of this Declaration are severable.

Section 17.2. **Headings.** The headings in this Declaration are for purposes of reference only and shall not limit or otherwise affect the meaning thereof.

Section 17.3. **Agent.** The person who shall receive service of process for the Association during the period of Declarant control is Robert H. Rushford, Esq., Gravel & Shea PC, 76 St. Paul Street, Burlington, VT 05402-0369.

Section 17.4. **Declarant's Disclaimer for Economic Benefit.** Declarant has made no representations, and Declarant hereby disclaims any representations made by anyone claiming to act as Declarant's authorized agent, as to the feasibility of renting a Lot in the Planned Community or otherwise generating income or deriving any other economic benefit from a Lot.

Section 17.5. **Declarant's Disclaimer for Security.** Neither the Association nor the Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners, tenants, guests, and invitees of any Owner, as applicable, acknowledge that the Declarant and the Association are not insurers and that each Owner, tenant, guest, and invitee assumes all risk of loss or damage to persons, to Dwellings, and to contents of Dwellings, and further acknowledge that neither the Declarant nor the Association has made any representation or warranty, nor has any Owner, tenant, guest, or invitee relied upon any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose relative to any security measures recommended or undertaken.

Section 17.6. **Governing Law.** This Declaration shall be governed by and construed in accordance with the laws of the State of Vermont, without giving effect to such jurisdiction's principles of conflicts of laws.

Section 17.7. **Conflicts.** In the event of a conflict between the Declaration and the Bylaws, the Declaration shall control except to the extent the Declaration is inconsistent with the Act, in which event the Act shall control.

IN WITNESS WHEREOF, Declarant, by its Duly Authorized Agent, has caused this Declaration to be executed as of the _____ day of _____, 2020.

IN PRESENCE OF:

THE SNYDER SHELBURNE PROPERTIES,
LLC

Witness

By: _____
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this _____ day of _____, 2020, personally appeared Christopher R. Snyder, Duly Authorized Agent of **THE SNYDER SHELBURNE PROPERTIES, LLC** to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of Christopher R. Snyder.

Before me, _____
Notary Public – State of Vermont

Printed Name: _____

My commission expires: 1/31/21

Exhibit A

PROPERTY DESCRIPTION

Being all and the same land and premises conveyed to The Snyder Shelburne Properties, LLC by Warranty Deed from ABC/MRC, Inc. dated November 6, 2019 and recorded in Volume 455 at Page 314 of the Town of Shelburne Land Records.

Being 51.04 acres, more or less, depicted as **Footprint Lots 1C-28C, Footprint Lots T1-T36, Lots S1-S27, Open Space Parcels 1-8, Caspian Lane, Elmore Street, Willoughby Lane and Carmi Drive** as shown on the following plats entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (South)," Sheet PL-2, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 894B of the Town of Shelburne Land Records; and "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (North)," Sheet PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 895A of the Town of Shelburne Land Records (collectively, the "Plat").

The Property is subject to and benefitted by: (a) all easements and rights of way depicted on the Plat and as of record, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; (b) the terms and conditions of the following permits: (i) Town of Shelburne Final Plat Approval #SUB16-02 dated February 20, 2019; (ii) State of Vermont Wastewater System and Potable Water Supply Permit No. WW-4-5195 dated July 22, 2019 and recorded in Volume 453 at Page 507 of the Town of Shelburne Land Records; (iii) State of Vermont Stormwater Discharge Permit No. 7826-INDC dated September 12, 2017, as evidenced by Notice of Issuance dated October 4, 2019 and recorded in Volume 1093 at Page 413 of the Town of Shelburne Land Records; and (iv) State of Vermont Land Use Permit No. 4C1318 dated September 6, 2019 and recorded in Volume 453 at Page 628 of the Town of Shelburne Land Records; and (v) State of Vermont Public Water System Permit to Construct PID# C-3660-19.0 WSID #VT0005087 dated June 19, 2019; (c) a sewer easement described in an Easement Deed from Elna N. Samuelsen to The Snyder Shelburne Properties, LLC dated November 1, 2019 and recorded in Volume 455 at Page 344 of the Town of Shelburne Land Records, as amended by Corrective Easement Deed dated December 30, 2019 and recorded in Volume 456 at Page 324 of the Town of Shelburne Land Records, which was reconveyed to the Town of Shelburne by Easement Deed dated December 27, 2019 and to be recorded in the Town of Shelburne Land Records; (d) Irrevocable Offer of Dedication (Roadways) from The Snyder Shelburne Properties, LLC to the Town of Shelburne dated November 6, 2019 and to be recorded in the Town of Shelburne Land Records (dedicating the public roadways and public infrastructure depicted on the Plat); (e) Open Space Agreement by and between The Snyder Shelburne Properties, LLC and the Town of Shelburne dated November 6, 2019 and to be recorded in the Town of Shelburne Land Records; (f) Easement Deeds from The Snyder Shelburne Properties, LLC to the Town of Shelburne dated November 6, 2019 and December 27, 2019 and to be recorded in the Town of Shelburne Land Records (for pedestrian path, stormwater lines and sewer line as shown on the Plat); (g) the terms and conditions of this Declaration, as amended from time to time; and (h) Easement to Green Mountain Power Corporation dated _____, 2020 and to be recorded in the Town of Shelburne Land Records.

Reference is hereby made to the above-referenced Plat, and instruments and the records thereof and references therein contained in further aid of this description.

Exhibit B
ASSOCIATION BYLAWS

[See Attached]

**BYLAWS
OF
KWINIASKA RIDGE HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE 1
Plan of Lot Ownership**

Section 1.1. **Applicability**. These Bylaws provide for the governance of the Kwiniaska Ridge Homeowners' Association, Inc. (the "Association"), and being more particularly described in the Declaration of Planned Community for Kwiniaska Ridge Planned Community dated of or about even date herewith and to be recorded in the Town of Shelburne Land Records (the "Declaration").

Section 1.2. **Compliance**. Every Lot Owner (as defined and described in the Declaration) and all those entitled to occupy a Lot (as defined and described in the Declaration) shall comply with these Bylaws.

Section 1.3. **Office**. The office of the Association, and the Executive Board shall be located at the Property or at such other place as may be designated from time to time by the Executive Board.

Section 1.4. **Definitions**. Each capitalized term used herein without definition shall have the meanings specified in the Declaration, to which these Bylaws are attached, as it may be amended from time to time.

**ARTICLE 2
Association**

Section 2.1. **Composition; Responsibility**. The Association shall consist of all Lot Owners acting as a group. The Association shall have the responsibility for maintaining, repairing, and replacing the open space, common elements and common infrastructure at the Kwiniaska Ridge Planned Community as described in the Declaration, establishing the means and methods of collecting Assessments for common expenses, and performing all of the other acts that may be required or permitted to be performed by the Association under the Declaration.

Section 2.2. **Annual Meetings**. An annual meeting of the Association shall be held each year at a time to be determined by the Executive Board. At such annual meetings the Executive Board for the next year shall be elected. If, in any year, an annual meeting is not held, a special meeting may be held in lieu thereof, and any elections or business transacted any annual meeting.

Section 2.3. **Special Meetings**. Special meetings of the members may be called at any time for the purpose of considering matters which, by the terms of the Declaration require the approval of all or some of the members, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by the President or a majority of the Executive Board, or by the Lot Owners having twenty percent (20%) of the total votes in the Association.

Section 2.4. **Place of Meetings**. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Lot Owners as may be designated by the Executive Board.

Section 2.5. Notice of Meetings.

- (a) If the Association does not notify Lot Owners of a special meeting within 30 days after the requisite number or percentage of Lot Owners request the Secretary to do so, the requesting members may directly notify all the Lot Owners of the meeting. Only matters described in the meeting notice required by Section 2.5(b) may be considered at a special meeting.
- (b) The Association shall notify Lot Owners of the time, date, and place of each annual and special Lot Owners meeting not less than 10 days or more than 60 days before the meeting date. Notice may be by any means described in Section 3-121 of the Act. The notice of any meeting must state the time, date, and place of the meeting and the items on the agenda, including:
 - (i) a statement of the general nature of any proposed amendment to the Declaration or Bylaws;
 - (ii) any budget changes; and
 - (iii) any proposal to remove an officer or member of the Executive Board.
- (c) Any Owner may at any time, in writing, waive notice of any meeting of the Association, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Lot Owner at any meeting of the Association without objection to the notice of the meeting shall constitute a waiver of notice by him or her of the time, place and purpose of such meeting. The minimum time to give notice required by Section 2.5(b) may be reduced or waived for a meeting called to deal with an emergency.
- (d) Meetings of Lot Owners may be conducted by telephonic, video, or other conferencing process as long as:
 - (i) the meeting notice states the conferencing process to be used and provides information explaining how Lot Owners may participate in the conference directly or by meeting at a central location or conference connection; and
 - (ii) the process provides all Lot Owners the opportunity to hear or perceive the discussion and to comment as provided in Section 2.10.

Section 2.6. Method of Providing Notice.

- (a) The Association shall deliver any notice required to be given by the Association under the Act to any mailing or electronic mail address a Lot Owner designates. Otherwise, the Association may deliver notices by:
 - (i) hand delivery to each Lot Owner;
 - (ii) hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each Lot;
 - (iii) electronic means, if the Lot Owner has given the Association an electronic address; or

- (iv) any other method reasonably calculated to provide notice to the Lot Owner.
- (b) The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

Section 2.7. Adjournment of Meetings. If at any meeting of the Association a quorum is not present, Lot Owners having a majority of the votes who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than 48 hours after the time the original meeting was called.

Section 2.8. Voting.

- (a) Lot Owners shall be entitled to vote on Association matters as provided in the Declaration and the Act. Lot Owners shall have one (1) vote weighted in accordance with their undivided Allocated Interest in the Common Elements pertaining to their Lot as allocated in the Declaration, and joint owners of a Lot shall vote their one (1) vote collectively through one owner identified as the "voting member" in a writing filed with the Secretary.
- (b) Lot Owners may vote at a meeting in person, by absentee ballot pursuant to Section 2.8(c)(iv), by a proxy pursuant to Section 2.8(d) or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to Section 2.8(e).
- (c) At a meeting of Lot Owners, the following requirements apply:
 - (i) Lot Owners who are present in person may vote by voice vote, show of hands, standing, or any other method for determining the votes of Lot Owners, as designated by the person presiding at the meeting.
 - (ii) If only one of multiple owners of a Lot is present, that owner is entitled to cast all the votes allocated to that Lot. If more than one of the owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the owners, unless the Declaration expressly provides otherwise. There is majority agreement if any one of the owners casts the votes allocated to the Lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the Lot.
 - (iii) Unless a greater number or fraction of the votes in the Association is required by this chapter or the Declaration, a majority of the votes cast determines the outcome of any action of the Association.
 - (iv) A Lot Owner may vote by absentee ballot without being present at the meeting. The Association promptly shall deliver an absentee ballot to an owner that requests it if the request is made at least three (3) days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.
 - (v) When a Lot Owner votes by absentee ballot, the Association must be able to verify that the ballot is cast by the Lot Owner having the right to do so.
- (d) The following requirements apply with respect to proxy voting:
 - (i) Votes allocated to a Lot may be cast pursuant to a directed or undirected proxy duly executed by a Lot Owner.

- (ii) If a Lot is owned by more than one person, each owner of the Lot may vote or register protest to the casting of votes by the other owners of the Lot through a duly executed proxy.
 - (iii) A Lot Owner may revoke a proxy given pursuant to this Section only by actual notice of revocation to the person presiding over a meeting of the Association.
 - (iv) A proxy is void if it is not dated or purports to be revocable without notice.
 - (v) A proxy is valid only for the meeting at which it is cast and any recessed session of that meeting.
 - (vi) A person may not cast undirected proxies representing more than 15 percent of the votes in the Association.
- (e) An Association may conduct a vote without a meeting. In that event, the following requirements apply:
- (i) The Association shall notify the Lot Owners that the vote will be taken by ballot.
 - (ii) The Association shall deliver a paper or electronic ballot to every Lot Owner entitled to vote on the matter.
 - (iii) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.
 - (iv) When the Association delivers the ballots, it shall also:
 - (A) indicate the number of responses needed to meet the quorum requirements;
 - (B) state the percent of votes necessary to approve each matter other than election of directors;
 - (C) specify the time and date by which a ballot must be delivered to the Association to be counted, which time and date may not be fewer than three (3) days after the date the Association delivers the ballot; and
 - (D) describe the time, date, and manner by which a Lot Owner wishing to deliver information to all Lot Owners regarding the subject of the vote may do so.
 - (v) A ballot is not revoked after delivery to the Association by death or disability or attempted revocation by the person that cast that vote.
 - (vi) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.
- (f) Any action by the Lot Owners required or permitted to be taken at any meeting may be taken without a meeting if all of the Lot Owners entitled to vote on such matter(s) shall

individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Lot Owners.

Section 2.9. **Quorum.** A quorum is present throughout any meeting of the Lot Owners if persons entitled to cast twenty percent (20%) of the votes in the Association: (a) are present in person or by proxy at the beginning of the meeting; (b) have cast absentee ballots solicited in accordance with these Bylaws which have been delivered to the Secretary in a timely manner; or (c) are present by any combination of subdivisions (a) and (b) of this Section.

Section 2.10. **Conduct of Meetings.** The President shall preside over all meetings of the Association. The Secretary shall keep the minutes of the meetings and shall record in a minute book all resolutions adopted at the meetings as well as keep a record of all transactions occurring at the meetings. Lot Owners must be given a reasonable opportunity at any meeting to comment regarding any matter affecting the Planned Community or the Association. Except as otherwise provided in these Bylaws, meetings of the Association shall be conducted in accordance with the most recent edition of Roberts' Rules of Order Newly Revised.

ARTICLE 3 **Executive Board**

Section 3.1. **Number and Qualifications.** The affairs of the Association shall be governed by an Executive Board composed of not less than three (3) persons. Except for the initial Executive Board and except in the case of the Declarant, all Board members shall be Lot Owners. An officer, director, manager, member or authorized or agent of a corporate or limited liability company Lot Owner, or general partner of a partnership, or the beneficiary of a trust shall be deemed to be the Lot Owner for this purpose. Members of the Executive Board are sometimes referred to herein as "Directors."

Section 3.2. **Powers and Duties.** The Executive Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not prohibited by the Act, including the following:

- (a) Prepare an annual budget, in which there shall be established the Assessment for each Lot Owner for the Common Expenses of the Planned Community (the "Common Expenses"). Assessments will be charged to the Owners of each Lot on a per Lot basis.
- (b) Make Assessments against Lot Owners to defray the Common Expenses of the Planned Community as described in the Declaration, establish the means and methods of collecting such Assessments from the Lot Owners including reasonable discounts, late fees, interest, penalties, and other costs of the collection including attorneys' fees, and establish the period of the installment payment of the Assessment for Common Expenses. Unless otherwise determined by the Executive Board, the Assessments against each Lot Owner for each Lot Owner's proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for such month.
- (c) Provide for the operation, care, upkeep and maintenance of all of the infrastructure in the Planned Community.
- (d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements, provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of

equipment, supplies and materials to be used by such personnel in the performance of their duties (which supplies, equipment and materials shall be deemed part of the Property).

- (e) Collect the Assessments against the Lot Owners, deposit the proceeds thereof in bank depositories designated by the Executive Board, and use the proceeds to carry out the administration of the Property.
- (f) Make and amend the Rules and Regulations applicable to Lot Owners and occupants of Lots.
- (g) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (h) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Common Elements, and for repairs to and restoration of the Common Elements, in accordance with these Bylaws, after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
- (i) Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations and act on behalf of the Lot Owners with respect to all matters as provided for in the Declaration, the Act, these Bylaws, and applicable law. The Executive Board may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commencing an action for a violation of the Declaration, Bylaws, and rules, including whether to compromise any claim for unpaid Assessments or other claim made by or against it. The Executive Board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:
 - (i) the Association's legal position does not justify taking any or further enforcement action;
 - (ii) the covenant, restriction, or rule being enforced is or is likely to be construed as inconsistent with law;
 - (iii) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or
 - (iv) it is not in the Association's best interests to pursue an enforcement action.

The Executive Board's decision under this subsection not to pursue enforcement under one set of circumstances does not prevent the Executive Board from taking enforcement action under another set of circumstances, but the Executive Board may not be arbitrary or capricious in taking enforcement action.

- (j) Obtain and carry fidelity insurance and insurance against casualties and liabilities, as provided in the Declaration, the Act and in these Bylaws, pay the premiums therefor and adjust and settle any claim thereunder.
- (k) Pay the cost of all authorized services rendered to the Association and not billed to Lot Owners of individual Lots or otherwise provided for in these Bylaws.
- (l) Keep books with detailed accounts in chronological order of the receipts and expenditures

affecting the Property, and the administration of the Association, the Common Elements and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Lot Owners, their duly authorized agents or attorneys, and the holders, insurers, and grantors of first mortgages, during general business hours on working days at the times and in the manner set and announced by the Executive Board for the general knowledge of the Lot Owners. All books and records shall be kept in accordance with good accounting practices.

- (m) Borrow money on behalf of the Association when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Association; provided, however, that the consent of at least two-thirds of the votes of Lot Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum which would cause the total debt of the Association to exceed Five Thousand Dollars (\$5,000.00).
- (n) Acquire, hold and dispose of Lots and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Association.
- (o) Do such other things and acts permitted by and not inconsistent with the Act, the Declaration or these Bylaws which the Executive Board may be authorized to do by a resolution of the Association, and exercise all other powers that may be exercised in this state by organizations of the same type as the Association.
- (p) Suspend any right or privilege of a Lot Owner that fails to pay an Assessment, provided that it may not: (i) deny a Lot Owner or other occupant access to the owner's Lot; (ii) suspend a Lot Owner's right to vote; (iii) prevent a Lot Owner from seeking election as a director or officer of the Association; or (iv) withhold services provided to a Lot or a Lot Owner by the Association if the effect of withholding the service would be to endanger the health, safety, or property of any person.
- (q) Institute litigation or an arbitration, mediation, or administrative proceeding against any person, subject to and in accordance with the provisions of the Act, the Declaration, these Bylaws and other applicable law, an in addition the Executive Board promptly shall provide notice to the Lot Owners of any legal proceeding in which the Association is a party other than proceedings involving enforcement of rules or to recover unpaid assessments or other sums due the Association.
- (r) The Executive Board shall establish a reasonable method for Lot Owners to communicate among themselves and with the Executive Board on matters concerning the Association.
- (s) Notwithstanding the foregoing , the Executive Board shall have the right, without a vote of the Lot Owners, to convey to the Town of Shelburne a parcel of land described as "Open Space Parcel 3, 17.92 AC" as more fully described and shown on the following plats: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Boundary Survey," Sheet PL-1, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised November 30, 2018, and recorded in Map Slide 894A of the Town of Shelburne Land Records; "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (South)," Sheet PL-2, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 894B of the Town of Shelburne Land Records; and "Lands of ABC/MRC, Inc., Spear

Street, Shelburne, Vermont, Subdivision (North)," Sheet PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 895A of the Town of Shelburne Land Records.

Section 3.3. **Managing Agent**. The Executive Board may employ for the Association a "Managing Agent" at a compensation to be established by the Executive Board, provided such compensation be in an amount and on terms as would be negotiated between unrelated third parties for similar projects. Any contract established by the Declarant with a "Managing Agent" or similar agreement may be terminated at the option of the Executive Board two years after the Declarant surrenders control of the Association on not more than ninety (90) days' notice; provided, however, that any such agreement that is unconscionable or was not bona fide may be terminated on ninety (90) days' notice before the expiration of the two year period.

Section 3.4. **Election and Term of Office**. At each annual meeting of the Association, after transfer of control of the Association by the Declarant, the Association shall elect the Directors to serve for the next term. The term of office for Directors shall be for one (1) year unless other terms are established by the Association at any annual meeting. The members of the Executive Board shall hold office until their respective successors shall be elected by the Association.

Section 3.5. **Removal or Resignation of Members of the Executive Board**.

- (a) Notwithstanding any provision of the Declaration or Bylaws to the contrary, Lot Owners present in person, by proxy, or by absentee ballot at any meeting of the Lot Owners at which a quorum is present may remove any member of the Executive Board, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, but:
 - (i) a member appointed by the Declarant may not be removed by a Lot Owner vote during the period of Declarant control;
 - (ii) a member appointed under Section 3-103(g) of the Act may be removed only by the person that appointed that member; and
 - (iii) the Lot Owners may not consider whether to remove a member of the Executive Board or an officer elected by the Lot Owners at a meeting of the Lot Owners unless that subject was listed in the notice of the meeting.
- (b) Any member of the Executive Board whose removal has been proposed by the Lot Owners shall be given at least ten (10) days' notice of the time of the meeting. At any meeting at which a vote to remove a member of the Executive Board is to be taken, the member being considered for removal must have a reasonable opportunity to speak before the vote.
- (c) Following a vote for removal of a member of the Executive Board, a successor may then and there be elected to fill the vacancy thus created.
- (d) A member of the Executive Board may resign at any time and, except for the initial Directors appointed by the Declarant, shall be deemed to have resigned upon the sale of his or her Lot.

Section 3.6. **Organization Meeting**. The first meeting of the Executive Board shall be held at such time and place as shall be fixed by the Declarant.

Section 3.7. Regular Meetings. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by a majority of the Directors, but such a meeting shall be held at least following each meeting of the Association without notice. Notice of regular meetings of the Executive Board shall be given to each Director, in the manner as from time to time determined by the Executive Board.

Section 3.8. Special Meetings. Special meetings of the Executive Board may be called by the President on three (3) days' written notice to each Director, given by mail, telegraph, facsimile, or hand delivery, which notice shall state the time, place and purpose of the meeting. Special meetings of the Executive Board shall be called by the President or Secretary in like manner and on like notice on the written request of any Director.

Section 3.9. Meeting Requirements. The following requirements apply to meetings of the Executive Board and committees of the Association authorized to act for the Association:

- (a) Meetings shall be open to the Lot Owners except during executive sessions. The Executive Board and those committees may hold an executive session only during a regular or special meeting of the Executive Board or a committee. No final vote or action may be taken during an executive session. An executive session may be held only to:
 - (i) consult with the Association's attorney concerning legal matters;
 - (ii) discuss existing or potential litigation or mediation, arbitration, or administrative proceedings;
 - (iii) discuss labor or personnel matters;
 - (iv) discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the Association at a disadvantage; or
 - (v) prevent public knowledge of the matter to be discussed if the Executive Board or committee determines that public knowledge would violate the privacy of any person.
- (b) For purposes of this Section 3.9, a gathering of Executive Board members at which the Executive Board members do not conduct Association business is not a meeting of the Executive Board. The Executive Board and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this Section 3.9.
- (c) During the period of Declarant control, the Executive Board shall meet at least four (4) times a year. At least one of those meetings must be held at the Planned Community or at a place convenient to the community. After termination of the period of Declarant control, all Executive Board meetings must be at the Planned Community or at a place convenient to the Planned Community as determined by the Executive Board.
- (d) At each Executive Board meeting, the Executive Board shall provide a reasonable opportunity for Lot Owners to comment regarding any matter affecting the Planned

Community and the Association.

- (e) Unless the meeting is included in a schedule given to the Lot Owners or the meeting is called to deal with an emergency, the Secretary or President shall give notice of each Executive Board meeting to each Executive Board member and to the Lot Owners. The notice must be given at least 10 days before the meeting and must state the time, date, place, and agenda of the meeting.
- (f) If any materials are distributed to the Executive Board before the meeting, the Executive Board at the same time shall make copies of those materials reasonably available to Lot Owners, including without limitation on a message board, electronic message board or website, except that the Executive Board need not make available copies of unapproved minutes or of materials that are to be considered in executive session.
- (g) The Executive Board may meet by telephonic, video, or other conferencing process if:
 - (i) the meeting notice states the conferencing process to be used and provides information explaining how Lot Owners may participate in the conference directly or by meeting at a central location or conference connection; and
 - (ii) the process provides all Lot Owners the opportunity to hear or perceive the discussion and to comment as provided in Section 2.10.
- (h) After termination of the period of Declarant control, Lot Owners may amend the Bylaws to vary the procedures for meetings described in Section 3.9(g).
- (i) Instead of meeting, the Executive Board may act by unanimous consent as documented in a record authenticated by all its members. The Secretary promptly shall give notice to all Lot Owners of any action taken by unanimous consent. After termination of the period of Declarant control, the Executive Board may act by unanimous consent only to undertake ministerial actions or to implement actions previously taken at a meeting of the Executive Board.
- (j) Even if an action by the Executive Board is not in compliance with this Section 3.9, it is valid unless set aside by a court. A challenge to the validity of an action of the Executive Board for failure to comply with this Section 3.9 may not be brought more than sixty (60) days after the minutes of the Executive Board of the meeting at which the action was taken are approved or the record of that action is distributed to Lot Owners, whichever is later.

Section 3.10. Waiver of Notice. Any Director may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Executive Board shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all Directors are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Quorum. A quorum of the Executive Board is present for purposes of determining the validity of any action taken at a meeting of the Executive Board only if individuals entitled to cast fifty percent (50%) of the votes on the Board are present at the time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Board members present is the act of the Executive Board unless a greater vote is required by the Declaration or these Bylaws.

Section 3.12. **Compensation.** No Director shall receive any compensation from the Association for acting as such.

Section 3.13. **Liability of the Executive Board, Officers, Lot Owners, and Association.**

- (a) The officers and members of the Executive Board shall not be liable to the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the officers and Directors from and against all expenses and liabilities to others arising out of claims made against the officers or the Executive Board on account of their status as officers and Directors unless any such contract shall have been made in bad faith or contrary to the provisions of the Act, the Declaration or these Bylaws.
- (b) Neither the Association nor the Executive Board shall be liable for any failure of utility or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by any Lot Owner or any other person, or resulting from electricity, water, snow, or ice which may leak or flow from any portion of the Common Elements, or from any pipe, drain, conduit, appliance, or equipment. The Association shall not be liable to any Lot Owner for loss or damage, by theft, or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

ARTICLE 4
Officers

Section 4.1. **Designation.** The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Executive Board. The Executive Board may appoint an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary. The President shall be a member of the Executive Board. A person who is a member of the Executive Board may be an officer. The President and the Secretary may not be the same person.

Section 4.2. **Election of Officers.** The officers of the Association shall be elected annually by the Executive Board at the organization meeting of each new Executive Board and shall hold office at the pleasure of the Executive Board.

Section 4.3. **Removal of Officers.**

- (a) Notwithstanding any provision of the Declaration or Bylaws to the contrary, Lot Owners present in person, by proxy, or by absentee ballot at any meeting of the Lot Owners at which a quorum is present may remove any officer elected by the Lot Owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, but:
 - (i) an officer appointed by the Declarant may not be removed by a Lot Owner vote during the period of Declarant control;

- (ii) an officer appointed under Section 3-103(g) of the Act may be removed only by the person that appointed that member; and
 - (iii) the Lot Owners may not consider whether to remove an officer elected by the Lot Owners at a meeting of the Lot Owners unless that subject was listed in the notice of the meeting.
- (b) At any meeting at which a vote to remove an officer is to be taken, the officer being considered for removal must have a reasonable opportunity to speak before the vote.
- (c) A successor may be elected at any regular meeting of the Executive Board or at any special meeting of the Executive Board called for such purpose, including the meeting at which the officer was removed.

Section 4.4. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Executive Board, and have all of the general powers and duties which are incident to the office of president generally including, without limitation, the power to appoint committees from among the Lot Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Executive Board shall appoint some other member of the Executive Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Executive Board or by the President.

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Executive Board; have charge of such books and papers as the Executive Board may direct; maintain a register setting forth the place to which all notices to Lot Owners and others shall be delivered; and, in general, perform all the duties incident to the office of Secretary.

Section 4.7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; make disbursements on behalf of the Association upon consent of the Executive Board and shall be responsible for the deposit of all monies and other valuable effects in the name of the Executive Board, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Executive Board; and, in general, perform all the duties incident to the office of Treasurer.

Section 4.8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Five Hundred Dollars (\$500.00), and all checks drawn upon reserve accounts shall be executed by any two (2) persons designated by the Executive Board. All such instruments for expenditures or obligations of Five Hundred Dollars (\$500.00) or less, except from reserve accounts, may be executed by the Treasurer or any one person designated by the Executive Board.

Section 4.9. Compensation of Officers. No officer who is also a Director shall receive any compensation from the Association for acting as such officer.

Section 4.10. Bonds. The Treasurer, and such other officers as the Executive Board deem necessary, shall furnish bonds for the faithful performance of their duties, in such a manner and with such

sureties, as may be fixed and required by the Executive Board.

ARTICLE 5 **Operation of Planned Community**

Section 5.1. Determination of Common Expenses and Assessments Against Lot Owners.

- (a) **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Executive Board.
- (b) **Preparation and Approval of Budget.**
 - (i) On or before forty-five (45) days preceding the end of the fiscal year, the Executive Board shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Lots and other properties as to which it is the responsibility of the Executive Board to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, the Bylaws, or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Lot Owners of all related services.
 - (ii) Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide working capital, a general operating reserve, and reserves for contingencies and replacements. The Executive Board shall send to each Lot Owner prior to the end of the fiscal year, a copy of the budget for the next fiscal year in a reasonable itemized form which sets forth the amount of the Common Expenses and any special assessments payable by each Lot Owner. Such budget shall constitute the basis for determining each Lot Owner's Assessment for the Common Expenses of the Association.
 - (iii) The budget shall be ratified by the Lot Owners in accordance with the terms of the Declaration and the Act, as follows: Not later than thirty (30) days after adoption of a proposed budget, the Executive Board shall provide to all the Lot Owners a summary of the budget, including any reserves, and a statement of the basis on which any reserves are calculated and funded. Simultaneously, the Executive Board shall set a date not less than ten (10) days or more than sixty (60) days after providing the summary for a meeting of the Lot Owners to consider ratification of the budget. Unless at that meeting a majority of all Lot Owners or any larger number specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. If a proposed budget is rejected, the budget last ratified by the Lot Owners continues until Lot Owners ratify a subsequent budget.
- (c) **Assessment of Common Expenses.** The total amount of the estimated funds required from Assessments for the operation of the Planned Community set forth in the budget adopted by the Executive Board shall be assessed against each Lot Owner in proportion to the respective Allocated Interest of each Lot. The Assessment against each Lot shall begin on the date specified in the Declaration.

- (d) **Excess Funds.** Any funds collected during any fiscal year in excess of actual expenditures for that fiscal year shall be either applied to succeeding years' expenses or refunded, pro rata, to the Lot Owners.
- (e) **Reserves.** The Executive Board shall include in the budget and build up and maintain reasonable reserves for working capital, operations, contingencies and replacements as necessary to meet secondary mortgage market requirements. The proportionate interest of any Lot Owner in any replacement reserve shall be appurtenant to the Lot and shall not be separately withdrawn, assigned or transferred. If the reserve is inadequate for any reason, the Board may levy a further Assessment, payable as the Board determines necessary at any time. The Board will specifically earmark such capital reserve fund for stated capital purposes and keep special assessments in a separate bank account. The Board shall keep documentation of and treat all such funds as capital items on the Association books.
- (f) **Working Capital Fund.** The Board shall establish a working capital fund which shall be used for the start-up costs of the Association, including the purchase of cleaning and maintenance equipment, furniture and fixtures beyond that supplied by the Declarant and any initial insurance fees. Additionally, start-up costs shall include extraordinary expenditures, temporary operating deficits due to seasonal fluctuations, etc.
- (g) **Effect of Failure to Prepare or Adopt Budget.** The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Lot Owner's obligation to pay his or her allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Lot Owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notice of the monthly payment which is due.
- (h) **Availability of Financial Statements and Project Documents.** Upon the receipt of a written request by the Association from a Lot Owner or an Institutional Mortgagee, the Association shall make the most recent regularly prepared income and expense statement of the Association, the current operating budget of the Association and all project related documents, including the Declaration, Bylaws, Rules and Regulations, books and records of the Association available for inspection during regular business hours at the Association's office.
- (i) **Special Assessments.** The Executive Board, at any time, may propose a special assessment. Except as otherwise provided below, the assessment is effective only if the Executive Board follows the procedures for ratification of a budget described in Section 5.1(b) and the Lot Owners do not reject the proposed assessment. If the Executive Board determines by a two-thirds vote that a special assessment is necessary to respond to an emergency:
- (i) the special assessment becomes effective immediately in accordance with the terms of the vote;
 - (ii) notice of the emergency assessment must be provided promptly to all Lot Owners; and
 - (iii) the Executive Board may spend the funds paid on account of the emergency assessment only for the purposes described in the vote.

Section 5.2. Payment of Common Expenses. No Lot Owner may exempt himself/herself from liability for his/her contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his or her Lot. All accounts not paid when due, including interest and costs, and reasonable attorneys' fees, shall be a lien against the Lot Owner's Lot. Prior to or at the time of any conveyance of a Lot by a Lot Owner, all liens and unpaid Assessments shall be paid in full and discharged.

Section 5.3. Collection of Assessments. The Executive Board, or the Managing Agent at the request of the Executive Board, shall take prompt action to collect any Assessments for Common Expenses due from any Lot Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment, or installment thereof, not paid within five (5) days after the due date shall accrue a late charge in such reasonable amount as a percentage of the overdue assessment or installment as the Executive Board shall establish from time to time. Any Lot Owner who fails to make such payment within such period shall also be assessed the costs incurred by the Association to collect such unpaid assessments. All such assessments for Common Expenses, including interest, penalties, attorneys' fees, and costs shall become on the date such assessments are due, a lien against the Lot so assessed, and shall also be the personal obligation of the Lot Owner at the time the Assessments become due.

Section 5.4. Statements.

- (a) **Statement of Common Expenses.** Within ten (10) days after a request by a Lot Owner, the Executive Board shall provide the Lot Owner with a written statement of all unpaid Assessments for Common Expenses due from the Lot Owner. The Executive Board may impose a reasonable charge for the preparation of such statement.
- (b) **Statement of Default.** The Executive Board will make a reasonable effort to notify any mortgagee of any Lot, upon request, of any default in the performance by the Lot Owner of any obligation pursuant to the Declaration, the Bylaws and the Rules and Regulations, which is not cured within sixty (60) days of notice to each Lot Owner of such default.

Section 5.5. Actions to Foreclose a Lien.

- (a) The Association may not commence an action to foreclose a lien on a Lot unless:
 - (i) the Lot Owner, at the time the action is commenced, owes a sum equal to at least three months of Common Expense assessments based on the periodic budget last adopted by the Association pursuant to Section 5.1 (in accordance with Section 3-115(a) of the Act) and the Lot Owner has failed to accept or comply with a payment plan offered by the Association; and
 - (ii) the Executive Board votes to commence a foreclosure action specifically against that Lot.
- (b) Unless the parties otherwise agree, the Association shall apply any sums paid by Lot Owners that are delinquent in paying assessments in the following order:
 - (i) unpaid assessments;
 - (ii) late charges;

- (iii) reasonable attorneys' fees and costs and other reasonable collection charges; and
 - (iv) all other unpaid fees, charges, fines, penalties, interest, and late charges.
- (c) Notwithstanding Section (a) of this Section 5.5, unless sums due the Association include an unpaid assessment, a foreclosure action may not be commenced against the Lot unless the Association has a judgment against the Lot Owner for the sums due the Association and has perfected a judgment lien against the Lot.
 - (d) Every aspect of a foreclosure, sale, or other disposition under this Section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Section 5.6. Association Rules.

- (a) Before adopting, amending, or repealing any rule, the Executive Board shall give all Lot Owners notice of:
 - (i) its intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change; and
 - (ii) a date on which the Executive Board will act on the proposed rule or amendment after considering comments from Lot Owners.
- (b) Following adoption, amendment, or repeal of a rule, the Association shall notify the Lot Owners of its action and provide a copy of any new or revised rule.
- (c) The Association may adopt rules to establish and enforce construction and design criteria and aesthetic standards if the Declaration so provides. If the Declaration so provides, the Association shall adopt procedures for enforcement of those standards and for approval of construction applications, including a reasonable time within which the Association must act after an application is submitted and the consequences of its failure to act.
- (d) A rule regulating display of the flag of the United States must be consistent with federal law. In addition, the Association may not prohibit display on a Lot or on a Limited Common Element adjoining a Lot of the flag of this state, or signs regarding candidates for public or Association office or ballot questions, but the Association may adopt rules governing the time, place, size, number, and manner of those displays.
- (e) Lot Owners may peacefully assemble on the Common Elements to consider matters related to the Planned Community, but the Association may adopt rules governing the time, place, and manner of those assemblies.
- (f) The Association may adopt rules that affect the use of or behavior in Lots that may be used for residential purposes, only to:
 - (i) implement a provision of the Declaration;
 - (ii) regulate any behavior in or occupancy of a Lot which violates the Declaration or adversely affects the use and enjoyment of other Lots or the Common Elements by other Lot Owners; or

- (iii) restrict the leasing of residential Lots to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make loans secured by first mortgages on Lots in Planned Community or regularly purchase those mortgages; provided, however, that any rule restricting leasing shall contain reasonable provisions to protect or grandfather any leasing permitted before the adoption of the rule.
- (g) The Association's internal business operating procedures need not be adopted as rules.
- (h) Every rule must be reasonable.

Section 5.7. Required Records.

- (a) The Association shall retain the following:
 - (i) detailed records of receipts and expenditures affecting the operation and administration of the Association and other appropriate accounting records;
 - (ii) minutes of all meetings of its Lot Owners and Executive Board other than executive sessions, a record of all actions taken by the Lot Owners or Executive Board without a meeting, and a record of all actions taken by a committee in place of the Executive Board on behalf of the Association;
 - (iii) the names of Lot Owners in a form that permits preparation of a list of the names of all owners and the addresses at which the Association communicates with them, in alphabetical order showing the number of votes each owner is entitled to cast;
 - (iv) its original or restated organizational documents, if required by law other than the Act, Bylaws and all amendments to them, and all rules currently in effect;
 - (v) all financial statements and tax returns of the Association for the past three years;
 - (vi) a list of the names and addresses of its current Executive Board members and officers;
 - (vii) its most recent annual report delivered to the Secretary of state;
 - (viii) financial and other records sufficiently detailed to enable the Association to comply with Section 4-109 of the Act;
 - (ix) copies of current contracts to which it is a party;
 - (x) records of Executive Board or committee actions to approve or deny any requests for design or architectural approval from Lot Owners; and
 - (xi) ballots, proxies, and other records related to voting by Lot Owners for one year after the election, action, or vote to which they relate.
- (b) Subject to subsections (c) and (d) of this Section, all records retained by the Association must be available for examination and copying by a Lot Owner or the owner's authorized agent:

- (i) during reasonable business hours or at a mutually convenient time and location; and
 - (ii) upon five (5) days' notice in a record reasonably identifying the specific records of the Association requested.
- (c) Records retained by the Association may be withheld from inspection and copying to the extent that they concern:
- (i) personnel, salary, and medical records relating to specific individuals;
 - (ii) contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;
 - (iii) existing or potential litigation or mediation, arbitration, or administrative proceedings;
 - (iv) existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the Declaration, Bylaws, or rules;
 - (v) communications with the Association's attorney which are otherwise protected by the attorney-client privilege or the attorney work-product doctrine;
 - (vi) information the disclosure of which would violate law other than the Act;
 - (vii) records of an executive session of the Executive Board; or
 - (viii) individual Lot files other than those of the requesting owner.
- (d) The Association may charge a reasonable fee for providing copies of any records under this Section and for supervising the Lot Owner's inspection.
- (e) A right to copy records under this Section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the Lot Owner.
- (f) The Association is not obligated to compile or synthesize information.
- (g) Information provided pursuant to this Section may not be used for commercial purposes.

ARTICLE 6 **Miscellaneous**

Section 6.1. **Amendments.** Except as otherwise provided herein, these Bylaws may be amended by affirmative vote of at least sixty seven percent (67%) of the Lot Owners entitled to vote on the matter.

Section 6.2. **Amendments to Declaration.** Amendments to the Declaration that are required by the Act to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of

designation, by the President of the Association. Amendments to the Declaration may only be made in accordance with the Declaration and with the Act.

Section 6.3. **Notices**. All notices, demands, bills, statements or other communications shall be in writing and shall be deemed to have been duly given if delivered to a Lot Owner in accordance with Section 2.6, and if delivered to the Association or the Executive Board, if hand delivered or sent postage prepaid to the principal office of the Association or at such other address as shall be designated in writing to the Lot Owners pursuant to this paragraph.

Section 6.4. **Captions**. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provisions thereof.

Section 6.5. **Gender**. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

The undersigned hereby certifies that as of _____, 2020, this is a true and accurate copy of the Bylaws of the Association.

By: _____
Name:
Title:

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS that **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with its principal place of business in Shelburne, County of Chittenden and State of Vermont ("Grantor"), in consideration of the sum of Ten and More Dollars, paid to its full satisfaction by ^Z_____ and ^Z_____, of ^Z_____, County of ^Z_____ and State of ^Z_____("Grantee^Z[s]"), by these presents, does hereby **GIVE, GRANT, SELL, CONVEY and CONFIRM** unto the said Grantee[s], ^Z_____ and ^Z_____, ^Z[, husband and wife, as tenants by the entirety, and their heirs and assigns and the heirs and assigns of the survivor thereof] [, as joint tenants with the right of survivorship, and their heirs and assigns and the heirs and assigns of the survivor thereof] [, as tenants in common, and their heirs/*successors*] and assigns][, and his/her/their heirs and assigns] [, and its successors and assigns] [*if Trustee(s):* , and his/her/their successors and assigns] forever, a certain piece of land with all improvements thereon and appurtenances thereto in the Town of Shelburne, County of Chittenden and State of Vermont (the "Premises"), described as follows, viz:

Being all of **Single Family Lot [S1 - S27] or Carriage Home Lot [1C -28C] or Townhome Lot [T1 - T36]** with a newly-constructed dwelling thereon, being a Unit as described and defined in the Declaration of Planned Community for Kwiniaska Ridge, and all Exhibits thereto, dated _____, 2020 and recorded in Volume ___ at Page ___ of the Town of Shelburne Land Records (the "Declaration"), and as shown on a two-page plat entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (South)," Sheet PL-2, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 894B of the Town of Shelburne Land Records; and "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (North)," Sheet PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 895A of the Town of Shelburne Land Records (collectively, the "Plat"), containing _____ square feet *[acres]*, more or less. The street address of the Premises is _____ [*Caspian Lane, Elmore Street, Willoughby Lane and Carmi Drive*], Shelburne, Vermont.

Being a portion of the same land and premises conveyed to The Snyder Shelburne Properties, LLC by Warranty Deed from ABC/MRC, Inc. dated November 6, 2019 and recorded in Volume 455 at Page 314 of the Town of Shelburne Land Records.

The Premises are conveyed with the benefit of easements and rights of way over all the streets shown on the Plat and easements for the utilities located therein until such streets and utilities are accepted by the municipality as public streets and utilities, and are conveyed with easements for water, wastewater and stormwater lines and improvements outside street boundaries which serve the Premises as shown on the Plat. Reference is made to the Irrevocable Offer of Dedication (Roadways) from The Snyder Shelburne Properties, LLC to the Town of Shelburne dated November 6, 2019 and to be recorded in the Town of Shelburne Land Records (dedicating the public roadways and public infrastructure depicted on the Plat).

This conveyance includes one (1) of the memberships in the Kwiniaska Ridge Homeowners' Association, Inc. (the "Association"), the membership corporation formed to own, operate and maintain, supervise and otherwise care for and manage portions of the open space and common areas and facilities located at the Kwiniaska Ridge Planned Community. The membership shall be appurtenant to and indivisible from the ownership of the Premises. Grantees, by the acceptance of this Deed, covenant and agree that they will abide by all of the terms, covenants, restrictions and

obligations set forth in the Declaration, the Bylaws and the rules and regulations of the Association, and including, but not by way of limitation, the obligation to timely pay the assessments called for in the Declaration.

The Premises are conveyed subject to and with the benefit of: (a) all easements and rights of way depicted on the Plat and as of record, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; (b) the terms and conditions of the following permits: (i) Town of Shelburne Final Plat Approval #SUB16-02 dated February 20, 2019; (ii) State of Vermont Wastewater System and Potable Water Supply Permit No. WW-4-5195 dated July 22, 2019 and recorded in Volume 453 at Page 507 of the Town of Shelburne Land Records; (iii) State of Vermont Stormwater Discharge Permit No. 7826-INDC dated September 12, 2017, as evidenced by Notice of Issuance dated October 4, 2019 and recorded in Volume 1093 at Page 413 of the Town of Shelburne Land Records; and (iv) State of Vermont Land Use Permit No. 4C1318 dated September 6, 2019 and recorded in Volume 453 at Page 628 of the Town of Shelburne Land Records; and (v) State of Vermont Public Water System Permit to Construct PID# C-3660-19.0 WSID #VT0005087 dated June 19, 2019; (c) a sewer easement described in an Easement Deed from Elna N. Samuelsen to The Snyder Shelburne Properties, LLC dated November 1, 2019 and recorded in Volume 455 at Page 344 of the Town of Shelburne Land Records, as amended by Corrective Easement Deed dated December 30, 2019 and recorded in Volume 456 at Page 324 of the Town of Shelburne Land Records, and reconveyed to the Town of Shelburne by Easement Deed dated December 27, 2019 and to be recorded in the Town of Shelburne Land Records; (d) Irrevocable Offer of Dedication (Roadways) from The Snyder Shelburne Properties, LLC to the Town of Shelburne dated November 6, 2019 and to be recorded in the Town of Shelburne Land Records (dedicating the public roadways and public infrastructure depicted on the Plat); (e) Open Space Agreement by and between The Snyder Shelburne Properties, LLC and the Town of Shelburne dated November 6, 2019 and to be recorded in the Town of Shelburne Land Records; (f) Easement Deeds from The Snyder Shelburne Properties, LLC to the Town of Shelburne dated November 6, 2019 and December 27, 2019 and to be recorded in the Town of Shelburne Land Records (for pedestrian path, stormwater lines and sewer line as shown on the Plat); (g) the terms and conditions of the Declaration, as amended from time to time; and (h) Easement to Green Mountain Power Corporation dated _____, 2020 and recorded in Volume ____ at Page ____ of the Town of Shelburne Land Records.

The Premises are also subject to: (a) taxes assessed on the Grand List not delinquent on the date of this Deed, which Grantee[s] herein assume[s] and agree[s] to pay as part of the consideration for this Deed subject to such taxes being prorated between Grantor and Grantee[s] on the date this Deed is delivered; and (b) the provisions of municipal ordinances, public laws and special acts.

Notice is given of the existence of preserved agricultural lands located in the vicinity of the lot conveyed herein and that the open space parcels depicted on the Plat shall be available irrevocably and in perpetuity for agricultural purposes. The current or future agricultural operations on these lands may include, without limitation, plowing, planting, fertilizing, spraying and the use of agricultural chemical, pesticides and herbicides in the course of cultivating, harvesting, storing and transporting agricultural products, and the raising, feeding and management of livestock. Consistent with this notice, all lots or units are conveyed subject to a perpetual easement for any noise, odors, dust and/or byproducts and impacts that may occur in the course of conducting accepted agricultural and best-management practices on the nearby lands, and for any noise, odors, dust, mud or slowing of traffic on the project roadways by agricultural vehicles. All lot or unit owners, by the acceptance of their deed, waive any objection to impacts arising from accepted agricultural and best-management practices which are consistent with the rules established pursuant

to 6 V.S.A., Ch. 215 and are further notified that agricultural activities which are consistent with accepted agricultural and best-management practices do not constitute a nuisance or a trespass.

By the acceptance and recording of this Deed, Grantee[s] acknowledge[s] that before entering into a contract for the purchase of the Premises, Grantor provided Grantee[s] with a copy of the Public Offering Statement for Kwiniaska Ridge, and all exhibits attached thereto.

The dwelling and all improvements on the Premises were constructed by Grantor and, therefore, in accordance with Section 14.5 of the Declaration, no approval of their design and location is required. Grantor specifically warrants that any assessments due the Association are paid in full to the date of this Deed.

Reference is hereby made to the above-mentioned instruments, the records thereof and the references therein contained in further aid of this description.

TO HAVE AND TO HOLD the said granted Premises, with all the privileges and appurtenances thereto, to the said Grantee^Z[s], ^Z_____ and ^Z_____, husband and wife, as tenants by the entirety, and their heirs and assigns and the heirs and assigns of the survivor thereof] [, as joint tenants with the right of survivorship, and their heirs and assigns and the heirs and assigns of the survivor thereof] [, as tenants in common, and their heirs/, successors] and assigns] [, and his/her/their heirs and assigns] [, and its successors and assigns] [*if Trustee(s):* , and his/her/their successors and assigns], to their own use and behoof forever; and the said Grantor, **THE SNYDER SHELBOURNE PROPERTIES, LLC**, for itself and its successors and assigns, does covenant with the said Grantee, and its successors and assigns, that until the ensealing of these presents, Grantor is the sole owner of the Premises, and has good right and title to convey the same in the manner aforesaid, that the said Premises are **FREE FROM EVERY ENCUMBRANCE**, except as aforementioned; and it hereby engages to **WARRANT and DEFEND** the same against all lawful claims whatsoever, except as aforementioned.

IN WITNESS WHEREOF, **THE SNYDER SHELBOURNE PROPERTIES, LLC**, as evidenced by the signature of its Duly Authorized Agent, does hereby execute this Warranty Deed this _____ day of _____, 2020.

THE SNYDER SHELBOURNE PROPERTIES,
LLC

By: _____
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

Before me, on this _____ day of _____, 2020, personally appeared Christopher R. Snyder, Duly Authorized Agent of **THE SNYDER SHELBURNE PROPERTIES, LLC**, known to me to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **THE SNYDER SHELBURNE PROPERTIES, LLC**.

Date

Notary Public – State of Vermont

Printed Name: _____
Commission No.: _____
Commission Expires: 1/31/21

SCHEDULE 1.3

THE SNYDER SHELBURNE PROPERTIES, LLC

4076 Shelburne Rd, Suite 6
Shelburne, Vermont 05482

NEW HOME LIMITED WARRANTY

Purchaser's Name

Address of Home

Shelburne, VT 05482

Purchase Price \$ _____ .00

Commencement Date

Date _____

Purchaser (s)

This warranty contains an agreement to arbitrate. After signing this document, I/we understand that I/we will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, I/we agree to submit any such dispute to an impartial arbitrator. I/we further understand that after signing this document, any warranty claim against the Builder must be filed within either one (1) or two (2) years after the Commencement Date consistent with the terms herein, any claim filed after these dates shall be barred.

Date _____

THE SNYDER SHELBURNE PROPERTIES, LLC

By: _____
Duly Authorized Agent

STATE OF VERMONT
OFFICE OF SECRETARY OF STATE

The Office of Secretary of State hereby grants a

Certificate of Incorporation

To

**FAIRWAY AT SPEAR HOMEOWNERS'
ASSOCIATION, INC.**

A Vermont Domestic Non-profit Corporation, effective April 09, 2019

April 10, 2019



Given under my hand and the seal
of the State of Vermont, at
Montpelier, the State Capital

A handwritten signature in cursive script that reads "James C. Condos".

James C. Condos
Secretary of State

Business ID: 0355907
Filing Number: 0002553395



VERMONT SECRETARY OF STATE

Corporations Division

MAILING ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104

DELIVERY ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104

PHONE: 802-828-2386

WEBSITE: www.sec.state.vt.us

ARTICLES OF INCORPORATION

ELECTRONICALLY FILED

FILING NUMBER: 0002553395

FILING DATE: 4/9/2019

EFFECTIVE DATE: 4/9/2019

BUSINESS INFORMATION	
BUSINESS ID	0355907
BUSINESS NAME	FAIRWAY AT SPEAR HOMEOWNERS' ASSOCIATION, INC.
BUSINESS TYPE	Domestic Non-profit Corporation
BUSINESS DESCRIPTION	Any Legal Purpose
BUSINESS EMAIL	csnyder@snyderhomesvt.com

STATUS AS A MEMBER ORGANIZATION	
This corporation is not a member organization	

BENEFIT TYPE	
This is a mutual benefit non-profit corporation	

PRINCIPAL OFFICE PHYSICAL ADDRESS	
STREET ADDRESS	4076 Shelburne Road , Suite 6
STATE	Vermont
COUNTRY	United States

PRINCIPAL OFFICE MAILING ADDRESS	
ADDRESS	4076 Shelburne Road , Suite 6
STATE	Vermont
COUNTRY	United States

Incorporator Information		
NAME	PHYSICAL ADDRESS	MAILING ADDRESS
Robert H. Rushford	76 St. Paul Street, 7th Floor, Burlington, VT, 05401, USA	P.O. Box 369, Burlington, VT, 05402 - 0369, USA

Agent Information		
NAME	PHYSICAL ADDRESS	MAILING ADDRESS
Gravel & Shea PC	76 St. Paul Street, 7th Floor, BURLINGTON, VT, 05401, USA	P.O. Box 369, BURLINGTON, VT, 05402 - 0369, USA

Officer/Director Information			
NAME	TITLE	PHYSICAL ADDRESS	MAILING ADDRESS
Christopher R. Snyder	Director	4076 Shelburne Road, Suite 6, Shelburne, VT, 05482, USA	4076 Shelburne Road, Suite 6, Shelburne, VT, 05482, USA
Jean Lagrow	Director	4076 Shelburne Road, Suite 6, Shelburne, VT, 05482, USA	4076 Shelburne Road, Suite 6, Shelburne, VT, 05482, USA
Pat Kennedy	Director	4076 Shelburne Road, Suite 6, Shelburne, VT, 05482, USA	4076 Shelburne Road, Suite 6, Shelburne, VT, 05482, USA

Authorizer Information		
AUTHORIZER SIGNATURE	Robert H. Rushford	
AUTHORIZER POSITION	Vermont Secretary of State	Division of Corporations

STATE OF VERMONT
OFFICE OF SECRETARY OF STATE

Certificate of Amendment

I, James C. Condos, Vermont Secretary of State, do hereby certify that

attached is a true copy of the

ARTICLES OF AMENDMENT

For

**KWINIASKA RIDGE HOMEOWNERS'
ASSOCIATION, INC.**

Formerly Known as

**FAIRWAY AT SPEAR HOMEOWNERS'
ASSOCIATION, INC.**

As filed in this department effective October 16, 2019



October 16, 2019

Given under my hand and the seal
of the State of Vermont, at
Montpelier, the State Capital

James C. Condos
Secretary of State

Business ID: 0355907
Filing Number: 0002583328



**VERMONT SECRETARY OF STATE
Corporations Division**

MAILING ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104
DELIVERY ADDRESS: Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104
PHONE: 802-828-2386 WEBSITE: www.sec.state.vt.us

BUSINESS AMENDMENT

****ELECTRONICALLY FILED****

FILING NUMBER: 0002583328

FILING DATE/TIME: 10/16/2019 10:56:00
AM

BUSINESS INFORMATION	
BUSINESS ID	0355907
BUSINESS TYPE	Domestic Non-profit Corporation
BUSINESS DESCRIPTION	Any Legal Purpose
BUSINESS EMAIL	csnyder@snyderhomesvt.com
ORIGIN DATE	4/9/2019

The following Items were amended :

BUSINESS INFORMATION	
BUSINESS NAME	KWINIASKA RIDGE HOMEOWNERS' ASSOCIATION, INC.

AUTHORIZER INFORMATION	
AUTHORIZER SIGNATURE	Christopher Snyder
AUTHORIZER TITLE	Director

FINDINGS OF FACT AND NOTICE OF DECISION

Town of Shelburne - Development Review Board

Meeting Date: January 2, 2019, January 16, 2019, February 6, 2019, and February 20, 2019

PUD-R FINAL PLAN APPLICATION SUB16-02

Property Address: 5760 Spear Street

Applicant: The Snyder Group, Inc.

Property Owner: ABC/MRC, Inc.

Consultant: Lamoureux & Dickinson Consulting Engineers, Inc.

IDENTIFYING INFORMATION

Zoning District	Residential
Overlays	Stormwater, Floodplain and Watercourse
Map Numbers	14-20-19.100
Existing Lot Size	53.5 acres
Water/Wastewater	Municipal

OVERVIEW

The applicant, The Snyder Group, Inc., is proposing a 91-unit residential Planned Unit Development (PUD-R) at 5760 Spear Street. The subject property is located within the Residential District, and the Stormwater-Impaired Watershed Overlay District. Portions of the property are located within the Floodplain and Watercourse Overlay District. The property is 53.5 acres. Currently, the subject property hosts an outdoor recreation use—a golf course—and no structures.

The 91 proposed housing units will be on footprint lots. Of the 91 proposed units, 27 units would be single-family dwellings, 28 units would be “carriage” single-family dwellings, and 36 housing units would be in the form of 18 two-family dwellings. Areas surrounding the footprint lots would be open space, protected through an open space agreement with the town. In total, all of the open space areas the applicant has demarcated would be about 31.32 acres.

Municipal water and sewer will serve the proposed PUD-R. All proposed roads within the development will be public roads.

PUBLIC HEARING NOTICE

On December 16, 2018, the Burlington Free Press published a public hearing notice. A notice of the public hearing was also posted on December 16, 2018 in the Shelburne municipal office complex, the Shelburne Post Office, and the Pierson Library. The wording of the notice was:

SUB16-02—Application by Lamoureux & Dickinson Consulting Engineers, Inc. on behalf of The Snyder Group, Inc. for Final Plan Review for a proposed 91-unit Residential Planned Unit Development.
Property at 5760 Spear Street is in the Residential District, Stormwater Overlay District, and Floodplain and Watercourse Overlay District.

RECORD

Sketch Plan

- Cover letter prepared by Lamoureux & Dickinson Civil Engineering, dated and received February 22, 2016

- General Application Form, received February 22, 2016
- Sketch Plan Review Application, received February 22, 2016
- Property Owner Authorization Letter, received February 22, 2016
- Sketch Plan prepared by BSB Design, titled “Conceptual Site Plan Kwiniaska Shelburne VT”, received February 22, 2016
- Existing Conditions Site Plan prepared by Civil Engineering Associates, Inc., titled “Proposed Caldwell House Subdivision Spear St. & Webster Rd., Shelburne, VT”, received February 22, 2016
- Sketch Plan Narrative, received February 22, 2016
- Density Analysis, received February 22, 2016
- Vermont Department of Environmental Conservation Project Review Sheet, received February 23, 2016
- Abutter Map, received February 22, 2016
- Public Street Cross-section, received February 22, 2016
- Staff Report for March 16, 2016 DRB meeting
- Site Visit, conducted April 2, 2016
- Email from Craig Murry and Beth Tanzman, received March 16, 2016
- Email from Lilly and Michael Tarricone, received March 14, 2016
- Letter from Civil Engineering Associates, Inc. to Highway Department Superintendent Paul Goodrich, received March 14, 2016
- Email from Jeff Hodgson, received March 16, 2016
- Email from Fire Department, received March 22, 2016
- Email from Kate Fournier with Map attached, received April 4, 2016
- Comments from Shelburne Natural Resources and Conservation Committee, received March 24, 2016
- Comments from Alex von Stange, received April 17, 2016
- Memo from Water Quality Superintendent, received April 7, 2016
- Comments from Bike & Ped Paths Committee, received April 19, 2016
- Letter from Pamela and Stewart Loeb, received April 20, 2016
- Staff Memorandum for April 20, 2016 DRB meeting
- Request for Reconsideration Letter, prepared by Snyder Custom Homes, LLC, and Gravel & Shea Attorneys at Law, received June 24, 2016
- Cover letter prepared by Snyder Custom Homes, dated and received September 13, 2016
- Wildlife Survey prepared by Tina Scharf, dated July 11, 2016 and received September 13, 2016
- Amended Wildlife Survey prepared by Tina Scharf, dated and received September 14, 2016
- Conceptual Site Plan prepared by BSB Design, received 9/13/16
- Conceptual Site Plan-Neighborhood Open Space prepared by BSB Design, received September 13, 2016
- Conceptual Site Plan with previous application outline prepared by BSB Design, received September 13, 2016
- Kwiniaska Subdivision Density Plan prepared by Lamoureux & Dickinson Civil Engineering, dated September 2, 2016 and received September 13, 2016
- Water Commission letter, dated and received July 12, 2016
- Staff Memorandum regarding Request for Reconsideration, dated September 26, 2016

- Staff Report for October 5, 2016 DRB meeting

Preliminary Plan

- Letter from Lamoureux & Dickinson Civil Engineering to Staff requesting an extension, dated June 7, 2017
- Cover Letter prepared by Lamoureux & Dickinson Civil Engineering, received August 29, 2017
- Property Owner Authorization Letter, dated August 4, 2017 and received August 29, 2017
- General Application Form, received August 29, 2017
- Preliminary Plan Review Application, received August 29, 2017
- Site Plan Review Application, received August 29, 2017
- Comments from Town Departments, pursuant to Town Subdivision Regulations Section 600(28)
 - Water Quality Superintendent, dated June 28, 2017
 - Water Department, dated July 18, 2017
 - Fire Department, dated June 29, 2017 and August 3, 2017
 - Recreation Department, dated July 3, 2017
 - Police Department, dated July 6, 2017
 - Highway Department, dated June 6, 2017
 - Town Manager, dated July 3, 2017
 - Natural Resources and Conservation Committee, dated June 14, 2017 and July 12, 2017
- Letter from Champlain Water District, dated May 11, 2017
- Correspondence between Chris Robinson and David Wheeler, Assistant Stormwater Superintendent, City of South Burlington, dated June 29, 2017
- School Impact Questionnaire, dated March 7, 2017
- Traffic Impact Assessment, dated July 3, 2017
- Stormwater Narrative, dated June 2017
- Letter from Craig Hendel, Senior Hydrogeologist of Waite-Hendel Environmental Management, dated August 4 2017
- Landscape estimate of probable cost, received August 29, 2017
- Wildlife Survey prepared by Tina Scharf, Consulting Wildlife Biologist, dated July 11, 2016 and received September 13, 2016
- Letter from Tina Scharf, Consulting Wildlife Biologist, dated September 14, 2016
- Draft of Homeowners' Association Bylaws, received August 29, 2017
- Draft of Declaration of Planned Community, received August 29, 2017
- Images of example structures in proposed subdivision, received August 29, 2017
- Controlled Blasting and Rock Excavation Narrative, received August 29, 2017
- Site Plans, received August 29, 2017
 - Conceptual Site Plan, prepared by BSB Design;
 - Density Plan, prepared by Lamoureux and Dickinson;
- Staff Report for October 18, 2017 DRB meeting;
- Staff Report for November 15, 2017 DRB meeting;

- Letter from Lamoureux & Dickinson Civil Engineering to Staff requesting an extension, dated November 13, 2017
- Letter from Lamoureux & Dickinson Civil Engineering to Staff requesting an extension, dated May 31, 2018
- Cover Letter prepared by Andrew Rowe, Lamoureux & Dickinson, dated and received August 14, 2018;
- Letter from Rick Lewis, Water Superintendent, to Andrew Rowe, Lamoureux & Dickinson, confirming a water allocation request, dated July 24, 2018 and received August 14, 2018;
- Letter from Andrew Rowe, Lamoureux & Dickinson, to Rick Lewis, Water Superintendent, requesting water allocation, dated June 6, 2017 and received August 14, 2018;
- Site Plans, received August 14, 2018
 - Overall Site Plan (Sheet 1);
 - Site and Utility Plan - (Sheet 3);
 - Site and Utility Plan (Sheet 4);
 - Site and Utility Plan (Sheet 5);
 - Site and Utility Plan (Sheet 6);
 - Site and Utility Plan (Sheet 7);
 - Site and Utility Plan (Sheet 8);
 - Details and Specifications Water (Sheet 24);
 - Boundary Survey (Sheet PL-1);
 - Subdivision Plat (South) (Sheet PL-2);
 - Subdivision Plat (North) (Sheet PL-3);
- Staff Memorandum prepared for September 19, 2018 DRB meeting.

Final Plan

- Cover Letter, prepared by Lamoureux & Dickinson Consulting Engineers, Inc, dated and received December 11, 2018;
- General Application Form, received December 11, 2018;
- Final Plan Review Application, received December 11, 2018;
- Comprehensive Plan Narrative, received December 11, 2018;
- Report on Title to Real Property, received December 11, 2018;
- Declaration of Planned Community for Fairway at Spear, received December 11, 2018;
- Bylaws of Fairway at Spear Homeowners' Association, Inc., received December 11, 2018;
- Open Space Agreement between Town of Shelburne and The Snyder Shelburne Properties, LLC, received December 11, 2018;
- Easement Deed between Elna M. Samuelsen and The Snyder Group, Inc., received December 11, 2018;
- Irrevocable Offer of Dedication (Roadways) between The Snyder Shelburne Properties, LLC and Town of Shelburne, received December 11, 2018;
- Warranty Deeds between The Snyder Shelburne Properties, LLC and Town of Shelburne, received December 11, 2018;
- Site Plans, received December 11, 2018:
 - Overall Site Plan (Sheet Number 1)
 - Signs and Pavement Markings (Sheet Number 2)

- Site and Utility Plan – Street A and B (Sheet Number 3)
- Site and Utility Plan – Street A (Sheet Number 4)
- Collamer Court to Street A – Cross-Country Sewer Plan (Sheet Number 4A)
- Site and Utility Plan – Streets B, C, and D (Sheet Number 5)
- Site and Utility Plan – Street B (Sheet Number 6)
- Site and Utility Plan – Streets B and C (Sheet Number 7)
- Site and Utility Plan – Paved Path – Webster Road to Street C (Sheet Number 8)
- Street A Profile (Sheet Number 9)
- Streets A and B Profile (Sheet Number 10)
- Street B Profile (Sheet Number 11)
- Street C Profile (Sheet Number 12)
- Street D Profile (Sheet Number 13)
- Erosion Prevention and Sediment Control Plan – North (Sheet Number 14)
- Erosion Prevention and Sediment Control Plan – South (Sheet Number 15)
- Erosion Prevention and Sediment Control Specifications (Sheet Number 16)
- Landscaping Plan – North (Sheet Number 17)
- Landscaping Plan – South (Sheet Number 18)
- Sewage Pump Station (Sheet Number 19)
- Sewage Pump Station Specifications (Sheet Number 20)
- Roads Details and Specifications (Sheet Number 21)
- Miscellaneous Sitework Details and Specifications (Sheet Number 22)
- Sewer and Storm Details and Specifications (Sheet Number 23)
- Water Details and Specifications (Sheet Number 24)
- Storm, and Erosion Prevention and Sediment Control Details and Specifications (Sheet Number 25)
- Storm Details and Specifications (Sheet Number 26)
- Boundary Survey (Sheet Number PL-1)
- Subdivision Plat South (Sheet Number PL-2)
- Subdivision Plat North (Sheet Number PL-3)
- Memorandum to Staff from Sai Kumar Sarepalli, Transportation Engineer for Chittenden County Regional Planning Commission, dated December 6, 2017
- Traffic Impact Assessment, revised September 21, 2018 and received December 18, 2018
- Comments from Highways Superintendent Paul Goodrich, dated December 21, 2018 and received December 26, 2018
- Correspondence between Chris Robinson and David Wheeler, Assistant Stormwater Superintendent, City of South Burlington, dated and received December 27, 2018
- Staff Report prepared for January 2, 2019 DRB Meeting
- Memorandum from Water Quality Superintendent Chris Robinson, received January 2, 2019
- Memorandum from Andrew Rowe of Lamoureux & Dickinson Consulting Engineers, Inc. to Staff and Water Quality Superintendent regarding the wastewater and stormwater comments, received January 10, 2019

- Site Plans, received January 10, 2019:
 - Overall Site Plan (Sheet Number 1)
 - Signs and Pavement Markings (Sheet Number 2)
 - Site and Utility Plan – Street A and B (Sheet Number 3)
 - Site and Utility Plan – Street A (Sheet Number 4)
 - Collamer Court to Street A – Cross-Country Sewer Plan (Sheet Number 4A)
 - Site and Utility Plan – Streets B, C, and D (Sheet Number 5)
 - Site and Utility Plan – Street B (Sheet Number 6)
 - Site and Utility Plan – Streets B and C (Sheet Number 7)
 - Site and Utility Plan – Paved Path – Webster Road to Street C (Sheet Number 8)
 - Street A Profile (Sheet Number 9)
 - Streets A and B Profile (Sheet Number 10)
 - Street B Profile (Sheet Number 11)
 - Street C Profile (Sheet Number 12)
 - Street D Profile (Sheet Number 13)
 - Erosion Prevention and Sediment Control Plan – North (Sheet Number 14)
 - Erosion Prevention and Sediment Control Plan – South (Sheet Number 15)
 - Erosion Prevention and Sediment Control Specifications (Sheet Number 16)
 - Landscaping Plan – North (Sheet Number 17)
 - Landscaping Plan – South (Sheet Number 18)
 - Sewage Pump Station (Sheet Number 19)
 - Sewage Pump Station Specifications (Sheet Number 20)
 - Roads Details and Specifications (Sheet Number 21)
 - Miscellaneous Sitework Details and Specifications (Sheet Number 22)
 - Sewer and Storm Details and Specifications (Sheet Number 23)
 - Water Details and Specifications (Sheet Number 24)
 - Storm, and Erosion Prevention and Sediment Control Details and Specifications (Sheet Number 25)
 - Storm Details and Specifications (Sheet Number 26)
 - Boundary Survey (Sheet Number PL-1)
 - Subdivision Plat South (Sheet Number PL-2)
 - Subdivision Plat North (Sheet Number PL-3)
- Staff Memorandum prepared for the January 16, 2019 DRB meeting
- Comments on Traffic Study from Sai Kumar Sarepalli, Transportation Engineer for Chittenden County Regional Planning Commission, received January 11, 2019
- Response from Lamoureux & Dickinson Consulting Engineers, Inc. regarding Traffic Impact Analysis review, received January 15, 2019
- Memorandum from Water Quality Superintendent Chris Robinson, received January 15, 2019
- Staff memorandum prepared for the January 16, 2019 DRB meeting
- Email from Water Superintendent Rick Lewis to DRB Coordinator Ravi Venkataraman, dated December 26, 2018

- Staff memorandum prepared for the February 6, 2019 DRB meeting
- Stormwater Narrative, revised February 2019, received February 6, 2019
- Stormwater Modeling Data Summary, Revised February 2019, received February 6, 2019
- Revised HydroCAD Report, received February 6, 2019
- Site and Utility Plan (Street B – STA. 40+00 - STA. 47+00), last revised February 4, 2019, received February 6, 2019
- Staff memorandum prepared for the February 20, 2019 DRB meeting

During the hearings, Andy Rowe, Chris Snyder, Benjamin Tier, John Goodrich, Greg Shover, and David Marshall provided sworn remarks to the verbal testimony of the hearings. Emile and Diane Fournier, and Kate Fournier provided sworn written remarks to the verbal testimony of the hearings.

FINDINGS

1. The applicant filed a Final Plan Review Application on December 11, 2018.
2. Staff reviewed the application materials according to the *Town of Shelburne Zoning Bylaws*, last amended on May 2, 2018, and the *Shelburne, Vermont Subdivision Regulations*, last amended on May 18, 2016.
3. A duly warned public hearing opened on January 2, 2019.
4. The public hearing was conducted ‘on the record’ pursuant to 24 V.S.A. 4471(b) and held during the January 2, 2019, January 16, 2019, February 6, 2019, and February 20, 2019 DRB meetings.
5. The DRB closed the public hearing on February 20, 2019 and directed staff to write a decision indicating approval of the applicant’s Final Plan Application.
6. The applicant, The Snyder Group, Inc., is proposing a 91-unit residential Planned Unit Development (PUD-R).
7. The subject property is located at 5760 Spear Street. The property is 53.5 acres. Currently, the subject property hosts an outdoor recreation use—a golf course—and no structures.
8. The subject property lies within the Residential District, and the Stormwater-Impaired Watershed Overlay District. Portions of the property are located within the Floodplain and Watercourse Overlay District.
9. The 91 proposed housing units will be on footprint lots. Of the 91 proposed units, 27 units would be single-family dwellings, 28 units would be “carriage” single-family dwellings, and 36 housing units would be in the form of 18 two-family dwellings.
10. Areas surrounding the footprint lots would be open space, protected through an open space agreement with the town. In total, all of the open space areas the applicant has demarcated would be about 31.32 acres.
11. Municipal water and sewer will serve the proposed PUD-R. Wastewater from the PUD-R will be directed northerly to the existing municipal wastewater collection system on Collamer Court.
12. All proposed roads within the development will be public roads.
13. Article IV of the *Town of Shelburne Zoning Bylaws* (referred to as “Town Zoning Bylaws”) puts forth use and dimensional regulations for uses in the Residential District. Section 400 states that “The purpose of [the Residential] district is to protect and provide for moderate density, pedestrian friendly, residential neighborhoods in areas surrounding the Village, that are served by municipal sewer systems, to help meet the Town’s present and future housing needs.”
14. Section 410.1 lists single-family dwellings as permitted uses.
15. Section 410.2 lists two-family dwellings as permitted uses.

16. Section 440 states that Planned Unit Developments-Residential are allowed in the district, and such proposals must follow the regulations put forth in Section 1930.3.
17. Article V delineates the purpose of the Stormwater-Impaired Watershed Overlay District. As stated in Section 500, the purpose of the Stormwater-Impaired Watershed Overlay District is “to protect water quality in watersheds where surface waters have been identified as being impaired due to water quality impacts from stormwater.” Section 500 also states that “New development projects and redevelopment projects, including those involving construction, alteration, or improvement exceeding 10,000 SF on previously developed land, may be subject to individual stormwater permit requirements under Environmental Protection Rules (EPR) Chapter 22 Stormwater Management Rule For Stormwater-Impaired Waters, promulgated by the Water Quality Division of the Vermont Agency of Natural Resources.”
18. Section 530 states “Projects in this overlay district that result in a change in impervious surface area shall either submit documentation that they are exempt from the requirements of EPR Chapter 22, or submit a copy of their Individual Stormwater Permit Application and attachments (including plans, specifications, and calculations) to the Town of Shelburne.”
19. The applicant has a State Stormwater Permit (Permit no. 7826-INDS), valid until September 11, 2022.
20. A portion of the subject property lies within the Floodplain and Watercourse Overlay District and therefore, the project is subject to Article XVIII of the Town Zoning Bylaws. Section 1800.2 states that “the goal of this Article to minimize adverse impacts of development upon the sensitive natural areas adjacent to Shelburne's various watercourses and to minimize public and private loss caused by periodic flooding conditions. More specifically, this Article seeks to preserve water quality, prevent pollution, avoid erosion, and protect the ecology of stream beds and lands adjacent to watercourses.” According to Section 1800.2, minimizing undue adverse impacts would include:
 1. “Restricting or prohibiting use and development that is dangerous to health, safety or property in times of flood or which causes excessive increase in flood heights or velocities.”
 2. “Requiring that structures and uses vulnerable to flood, including public facilities that serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.”
 3. “Protecting individuals from the acquisition of property that is unsuited for their intended purposes because of flood hazards.”
21. The applicant does not propose any development in the portions of the property that lie within the Floodplain and Watercourse Overlay District.
22. Sections 1930.2 and 1930.3 of the Town Zoning Bylaws delineate the general standards for Planned Unit Developments (PUD), and Residential Planned Unit Developments (PUD-R).
23. From Section 1930.2, relevant standards for the applicant’s Final Plan application include the following: (E) “The proposal shall be an effective and unified treatment of the development possibilities on the project site, and the proposed development plan shall make appropriate provision for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, agricultural land, significant views, and unique, natural and man-made features”; (F) “The proposal shall be consistent with the Town Comprehensive Plan and all applicable bylaws”; (G) “The proposal shall be consistent with all evaluation standards set forth in the Shelburne Subdivision Regulations”; (H) “The proposal shall provide for the appropriate allocation, distribution, preservation and maintenance of open space and/or agricultural and forestry lands. Design that allows for contiguous open space is encouraged”; (I) “The proposed design shall provide for the economy and efficiency of street, utility, and public facility installation, construction and maintenance”; (K) “The development shall be compatible with neighboring properties”; and (L) “The Development Review Board may require phased construction of the development in order to stay consistent with the Town’s desired rate of growth, and in accordance with the Town Plan and any duly adopted Capital Budget and Program.”

24. Per Section 1930.3(C3), the periphery side- and rear-yard setbacks must be at least 50 feet.
25. The proposed periphery side- and rear-yard setbacks is 50 feet.
26. Per Section 1930.3(C4), for lots within the PUD-R, the front yard setback must be at least 30 feet, and the side- and rear-yard setbacks must be at least 15 feet.
27. For the proposed single-family dwellings, the front-yard setback will be 30 feet and the side- and rear-yard setbacks will be 15 feet at least.
28. For the proposed “carriage” single-family dwellings, the front-, side-, and rear-yard setbacks will be 0 feet. However, the applicant proposes that these structures will be 25 feet from the edge of the right-of-way and separated by 20 feet.
29. For the proposed two-family dwellings, the front-, side-, and rear-yard setbacks will be 0 feet. However, the applicant proposes that these structures will be 25 feet from the edge of the right-of-way and separated by 20 feet.
30. Per Section 1930.3(A4), “the Development Review Board may establish alternative setback standards, such as zero lot lines, as part of the PUD-R/Subdivision approval, if justified by the overall design of the development and if consistent with development objectives set forth in the Town Plan.”
31. Section 1930.3(C) puts forth the following design standards for PUD-R:
 1. “Lot layouts should provide sufficient space for residential uses, particularly in areas with on-site water and sewage disposal. Where residential lots will abut agricultural lands or lands used for agricultural purposes within the preceding ten years, lot layouts should be designed to minimize potential conflicts with agricultural operations. Whenever possible, property lines should follow existing manmade or natural features.”
 2. “Building envelopes and no-cut zones may be required by the Development Review Board to ensure the preservation of site features. Building envelopes should avoid open fields, should be located in wooded areas or on field edges and should not include sensitive areas such as wetlands, floodplains or steep slopes.”
 3. “Roadways shall be designed to minimize site disturbance by following existing contours and site features.”
 4. “Open space within PUD-Rs should preserve agricultural, recreational or natural resources, or serve as buffers to adjoining areas. Land set aside as open space should be of a size, type and location to meet its intended use.”
32. In the applicant’s Declaration of Planned Community, it states: “Except for trees removed by Declarant, no tree six (6”) inches or larger on the stump shall be cut on the Property until approved in writing by the Declarant or, after Declarant transfers control to the Association, by the Board of Directors. In addition, no trees shall be cut on the Open Space Parcels, unless such trees are dead or dying and are a safety concern.”
33. In addition to the open space agreement between the applicant and the Town, the applicant’s Declaration of Planned Community includes the following: “Notice is hereby given that the Association will agree in the future to make the open space area available irrevocably and in perpetuity for agricultural purposes with access to such open space over the roadways depicted on the Plat.”
34. All subdivision requests must be evaluated according to the following 12-point criteria put forth in Section 800 in the Town Subdivision Regulations:
 1. “Whether the land is unsuitable for subdivision or development due to flooding, inadequate stormwater management measures and/or insufficient stormwater treatment capacity, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas. In determining whether land is unsuitable for subdivision or development, the Development Review Board shall give due

Findings of Fact – Final Plan SUB16-02
5760 Spear Street

consideration to the definition of ‘developable land’ contained in Article XXI, Section 2110.36 of the Shelburne Zoning Bylaws.”

2. “Whether the proposal includes due regard for the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources and historical resources.”
3. “Whether the proposal includes sufficient open space for active and passive recreation.”
4. “Whether the proposal includes adequate provision for erosion prevention and sediment control during construction; minimizing stormwater generation after construction; and adequate stormwater treatment after construction, as determined by a standard equivalent to that required under Section 1900.4 of the Town of Shelburne Zoning Bylaws.”
5. “Whether the proposed development is in compliance with the Shelburne Comprehensive Plan, Zoning Bylaws and any other bylaws then in effect. Compliance with the Shelburne Comprehensive Plan shall be required when the proposed development is subject to Plan language that is specific and mandatory.”
6. “Whether any portion of the proposed development is located in a flood plain, including areas of special flood hazard as defined in the Shelburne Zoning Bylaws.”
7. “Whether the proposed development is compatible with surrounding properties. In determining whether the proposed development is compatible with surrounding properties, the Development Review Board shall give due consideration to the following characteristics of the proposal:
 - a. Inherent character of primary activity or activities,
 - b. Typical predominant sound levels and qualities,
 - c. Typical exterior activity levels,
 - d. Typical exterior lighting levels and requirements,
 - e. Typical predominant order, if any,
 - f. Typical vehicular traffic, and
 - g. Seasonal and diurnal patterns of sound, lighting, smells, and exterior activity levels. “
8. “Whether the site is suitable for the proposed density. In determining the suitability of the proposed density, the Development Review Board shall give due consideration to the definition of ‘developable land’ contained in Article XI, Section 2110.33 of the Shelburne Zoning Bylaws and to the development densities specified in Articles III and IV and VI through XIV of the Shelburne Zoning Bylaws.”
9. “Whether the proposal contains adequate provision for pedestrian traffic in terms of safety, convenience, connectivity, and access to points of destination and attractiveness, as determined by a standard equivalent to that required under Sections 1900.3.A. and 1900.7 of the Shelburne Zoning Bylaws.”
10. “Whether the anticipated tax return from the proposed development is equal to or exceeds the cost of, anticipated municipal services and facilities directly attributable to the proposed development and whether the proposed development will place an unreasonable burden on the ability of local government units to provide municipal or governmental services and facilities. Preparation of a fiscal impact analysis (FIA) by a qualified professional shall be required of any development exceeding 50 dwelling units or construction costs exceeding 2 million dollars.”
11. “Whether there is sufficient water available for the reasonably foreseeable needs of the proposed development. In determining the sufficiency of water supplies for proposals served all or in part by municipal water service, the Development Review Board shall give due consideration to [state standards] requiring minimum pressures as peak flow. In determining the sufficiency of water supplies for proposals served all or in part by wells or other on-site potable water supplies, the Development Review Board shall give due consideration to well-log data compiled by the

Vermont Agency of Natural Resources. The DRB may require an applicant to provide supplemental well-log data or hydrogeologic studies as part of any application.”

12. “Whether the proposed development will cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the Town, as determined by a standard equivalent to that required under Sections 1900.3 C. Applicants shall be required to prepare a Traffic Impact Study consistent with requirements of 1900.9 A and 1900.9 B of the Shelburne Zoning Bylaws when it can be demonstrated that projects will add 75 or more peak hour (AM or PM) vehicle trip ends to the transportation system.”
35. From Town Zoning Bylaws Section 2110.36, the definition of “developable land” is: “Land that is suitable for development and which is not characterized by any of the following: (a) Slopes of 15 percent or more; (b) Wetlands classified as class 2 or higher in the Vermont Significant Wetlands Inventory; (c) Flood Plain identified in the most recent National Flood Insurance Program Maps.”
36. Section 1900.4 of the Town Zoning Bylaws calls for the applicant to comply with the Vermont Stormwater Management Manual, Town Public Works Specifications Article IV, and standards set forth by the Vermont Department of Environmental Conservation.
37. Town Zoning Bylaws Section 1900.3(A) states that in the DRB’s review of the site plan, they must consider if the site promotes: “Maximum safety of vehicular and pedestrian circulation on site, between the site and adjacent roads, and between the site and adjacent developments.”
38. Town Zoning Bylaws Section 1900.7(B) states that sidewalks are a required improvement along public roads in the Residential District. However, the DRB has the discretion to allow for an alternative facility in lieu of a sidewalk.
39. Town Subdivision Regulations Section 810(1) calls for the “preservation of site amenities and/or natural resources such as trees, brooks or drainageways, historic sites, unique geologic features, or any other unusual features, which the Development Review Board feels are an asset to the site and/or community, shall be effected as required below and through harmonious design and appropriate construction methods.”
40. Regarding Section 810(2), the Town Subdivision Regulations advises that future development should conform to existing topography, limit grading, cutting and filling in order to maintain natural contours and deter stormwater runoff. Specifically, the regulation states “No topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs of that particular subdivision or to meet the requirements of the Zoning Bylaws.”
41. Section 810(3) states: “The smallest practical area of land shall be exposed at any one time during development. The exposure should be kept to the shortest practical period of time. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the Commission to protect areas exposed during the development. Sediment basins (debris basins, desilting basins, or silt traps) shall be installed and maintained during development to remove sediment from runoff water and from land undergoing development. The permanent final vegetation and structure should be installed as soon as practical in the subdivision. Adequate and permanent measures shall be taken at culvert outfalls to minimize or prevent erosion and disruption of drainageway areas. The construction shall comply with state requirements for erosion prevention and sediment control.”
42. Section 810(4) states that hardwood shade trees must be planted on both sides of streets or private ways where no trees in a manner consistent with the Town of Shelburne Tree Policy currently exist.
43. Section 810(5) declares that excavation and fill needed for construction must follow rules and regulations by the Vermont Department of Environmental Conservation.
44. Section 810(6) specifically sets forth that “Stumps, wood, roots or other fibrous materials or refuse, or unstable soils such as silt, shall not be used as fill”

45. Town Subdivision Regulations Article IX Section 900 discusses streets, specifically the arrangement of streets, topography and streets, intersections, street jogs, street names, street signs, Culs-de-Sac, and access. The criteria is as follows:

1. Arrangement - The arrangement of streets and roads in the subdivision shall provide rights-of-way for the continuation of streets of adjoining subdivisions and for proper extension of streets through adjoining properties which are not yet subdivided. Such layout shall facilitate the provision, now or in the future, of fire protection and emergency services, smooth and efficient traffic movement, and public facilities such as sewers, water and drainage. Where, in the opinion of the Development Review Board, topographic or other conditions make such continuation or extension undesirable or impracticable, the above requirements may be modified.”
2. Topography - Streets shall be logically related to the topography so as to produce usable lots, reasonable grades, and safe intersections in appropriate relation to the proposed use of the land to be served by such streets. Adequate provisions shall be made to control drainage of each street by an adequate storm water system.”
3. Intersections - Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than 80 degrees.”
4. Street Jogs - Four-way intersections, deflecting from each other at any one point by more than ten (10) degrees or with centerline offsets of less than 200 feet shall not be allowed.”
5. Street Names - Streets shall be identified by name on the proposed plat. Proposed streets which are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the names for proposed streets duplicate existing street names within the Town of Shelburne, irrespective of the suffix, be it street, avenue, boulevard, driveway, place or court.”
6. Street Signs - Street signs shall be required on all roads, public and private. For public roads, street signs and posts shall be provided and installed by the Town at the expense of the subdivider. For private roads, street signs and posts shall be provided by the Town at the expense of the subdivider and installed by the subdivider.”
7. Culs-de-Sac - A cul-de-sac is a street, terminating in a turnaround at one end. Cul-de-sacs shall be permitted only in residential districts and the length of the street shall not exceed ten (10) times the minimum required lot frontage for the districts involved.”
8. Access - Adequate provisions shall be made for vehicular and non-vehicular access to the proposed subdivision or development. Entrance and exits for motorized traffic shall be designed to facilitate smooth flow, controlled and coordinated turning movements, and minimized hazards to pedestrians and bicyclists. Unless waived by the Development Review Board, paved access for emergency vehicles shall be provided to within 100 feet of a principal entry for multi-family dwellings and commercial, industrial and institutional establishments.”
9. “Where a subdivision abuts or contains an existing or proposed major street, the Development Review Board may require internal access streets to provide road frontage for lots so that access onto major streets is controlled”
10. “Where a tract is subdivided into lots at least twice as large as the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit future subdivision in accordance with the requirements contained in these regulations.”
11. “All streets shall be completely constructed by the subdivider.”
12. “All streets shall be located within a right-of-way at least sixty (60) feet in width, except where waived by the Development Review Board.”

46. Section 920 establishes that lots must be laid out in order for development with full compliance to be possible. The DRB can require larger lots from the applicant because of conditions affecting drainage, sanitary sewage disposal, or water supply.
47. Section 940 stipulates that the applicant is responsible for installing water supply and distribution facilities according to the specifications of the Town Water Superintendent and the Water Commission. In addition, the applicant is responsible for installing fire protection systems according to applicable codes identified by the Shelburne Fire Chief.
48. Section 950 calls for connections to public sewer to be approved by the Town and the State.
49. Per Section 960, all utility lines are required to be underground and all proposed outdoor lighting must be consistent with Town Zoning Bylaws Section 1975.
50. Section 970 identifies stormwater management regulations, suggesting in particular low impact development techniques, and regulations on drainage systems.
51. Section 975 requires developments to maximize erosion prevention and sediment control, as stipulated in the State of Vermont Erosion Control and Sediment Control General Permit.
52. Section 700 lists the following as improvements the developer is responsible for: "Monuments, lot markers, streets, curbs, sidewalks where required by the Zoning Bylaws, street signs, outdoor lighting, water mains, sanitary sewers, stormwater management measures and stormwater treatment practices, fire hydrants, landscaping and other capital improvements as required by the Development Review Board, Town Manager, and/or Director of Public Works."
53. Section 710 stipulates that required improvements must be designed and installed according to applicable Town regulations and standards.
54. Under Section 730: "At least seven (7) days prior to commencing construction of any required improvements, the subdivider shall advise the Director of Public Works, in writing, when the construction of the required improvements shall begin, so that the Town can inspect during the construction process, in order to assure satisfactory completion of improvements or stipulations required by the Development Review Board. The Director of Public Works, may, at his/her discretion, require an independent registered engineer other than full-time Town employees to perform inspections as needed during the installation of required improvements and attest to the satisfactory completion of such work at the applicant's expense."
55. Section 740 states that: "Prior to construction of required improvements, and before notification of commencement of construction (as per Section 730, above) the subdivider shall have at least one initial meeting with the Director of Public Works and/or his/her designee for the purpose of agreeing to final working drawings and rules and notifications concerning inspections during installation of improvements."
56. In Section 1140, the regulations state:
 1. "Prior to commencing construction of required water, sewer and stormwater treatment practices and improvements, the subdivider shall inform the Director of Public Works, Water Superintendent, and Wastewater Superintendent of the name of the engineer who will be providing construction observations and inspections for the work. The supervising engineer shall be registered in the State of Vermont."
 2. "The designated engineer providing construction observations and inspections shall inspect the site during all phases of construction of the required water, sewer, and stormwater treatment improvements."
 3. "Upon completion of the required work, the engineer providing construction observations and inspections for the work, shall certify to the Town in writing, that the work was completed in accordance with the approved plans. As-Built drawings shall be prepared and submitted with such certification if construction deviated from approved plans."

Findings of Fact – Final Plan SUB16-02
5760 Spear Street

4. "No permit for subsequent work or certificate of occupancy for structures in the subdivision shall be issued until such certification has been received and accepted."
57. Section 1145 puts forth that "Prior to commencing any land clearing that results in the exposure of bare earth or onsite stockpiling earth materials, associated with the development of the subdivided land, and/or construction excavations or filling, the subdivider shall inform the Town Manager's office of the name of the contractor who will be responsible providing onsite installation, observations and inspections for the erosion prevention and sediment control work."

CONCLUSIONS

Based on the above findings derived from the evidence and testimony offered during the proceeding, the DRB has reached the following conclusions:

1. The DRB finds that the applicant's request would be in compliance with the Town Zoning Bylaws Articles IV, and XVIII, as long as the applicant develops with respect to the conditions specified below.
2. Under the provisions of Section 1930.3(A4), the DRB grants zero lot lines for the proposed "Carriage" single-family dwellings and two-family dwellings as they are consistent with the objectives of Growth Area 2 set forth in the Town Comprehensive Plan.
3. Regarding Town Subdivision Regulations Section 800(12), the DRB finds the Traffic Impact Analyses the applicant has provided sufficient, and concludes that the applicant's proposal will not have an undue adverse impact on traffic on Town roads.
4. Regarding Town Subdivision Regulations Section 920, the DRB finds that the footprint lots the applicant proposes and the lots for the single-family dwellings can be developed in compliance with the Town Zoning Bylaws and Town Subdivision Regulations, as long as the applicant develops with respect to the conditions specified below.
5. Regarding Town Subdivision Regulations Section 950, the DRB is satisfied by the Water Quality Superintendent's assurance that the applicant's plans meet the Town's standards, and concludes that the applicant's project is in conformance as long as the applicant develops with respect to the conditions specified below.
6. Regarding Town Subdivision Regulations Section 970, the DRB concurs with the comments from the Water Quality Superintendent and the City of South Burlington's Assistant Stormwater Superintendent about stormwater management, and concludes that the proposed project will be in conformance as long as the applicant develops subject to the conditions enumerated below.
7. Regarding Town Subdivision Regulations Sections 700 and 900, the DRB concludes that 28-foot wide public roadways—consistent with the Town Public Works Specifications Section 3 and as presented in the applicant's site plans received on January 10, 2019—would effectively facilitate efficient traffic movement, and the movement of fire protection and emergency services.
8. Regarding Town Subdivision Regulations Sections 700 and 710, the DRB finds that the applicant is responsible for building all required improvements as specified by Town Staff—including a pump station. The DRB concludes that the applicant will be in conformance with Sections 700 and 710 as long as the applicant develops with respect to the conditions listed below.

DECISION

Based on the aforementioned findings and conclusions, the DRB hereby decide that:

Findings of Fact – Final Plan SUB16-02

5760 Spear Street

Final Plan Review Application SUB16-02 by Lamoureux & Dickinson Consulting Engineers, Inc. on behalf of The Snyder Group, Inc. for a 91-unit Residential Planned Unit Development at 5760 Spear Street is APPROVED, subject to the following conditions:

1. The Mylar must be recorded within 180 days of the signed approval of this decision, pursuant to Town Subdivision Regulations Section 1050.
2. A Zoning Permit is required prior to any land development, pursuant to Town Zoning Bylaws 2010.1 and Town Subdivision Regulations Section 1120.
3. Prior to the issuance of the first Certificate of Occupancy, the pump station proposed in the applicant's site plans must be built according to the specifications identified by the Water Quality Superintendent, pursuant to Town Subdivision Regulations Section 700.
4. Prior to the issuance of any Zoning Permit, the developer, their engineer, their contractor, the Town's Water Quality Superintendent and/or his designee, and Town Planning and Zoning staff shall conduct a pre-construction meeting that would also inform the developer and parties associated with the developer the rules and notifications concerning inspections in all phases of construction, pursuant to Town Subdivision Regulations Section 740.
5. Pursuant to Section 730, prior to the issuance of a Zoning Permit, the applicant is required to notify the Town Manager when the construction of the required improvements shall begin, so that the Town can inspect during the construction process, in order to assure satisfactory completion of improvements or stipulations required by the Development Review Board.
6. Upon completion of the required work, the engineer providing construction observations and inspections for the work, shall certify to the Town in writing, that the work was completed in accordance with the approved plans prior to the issuance of the last Certificate of Occupancy, pursuant to Town Subdivision Regulations 1140.
7. Prior to the issuance of a Zoning Permit, the developer is responsible for informing the Town Manager's office of the name of the contractor who will be responsible for onsite installation, observations and inspections for the erosion prevention and sediment control work as specified in Section 1145 of the Town Subdivision Regulations.
8. Prior to the issuance of any zoning permit, the applicant is required to provide payment for the water allocation, as assessed by Water Superintendent, to the Shelburne Water Department, pursuant to Town Subdivision Regulations Section 940.

APPEAL RIGHTS

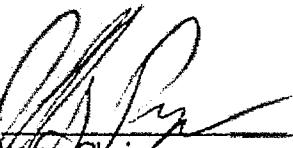
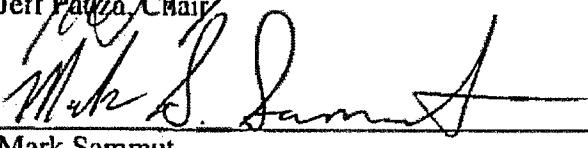
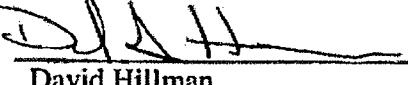
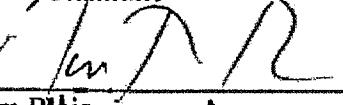
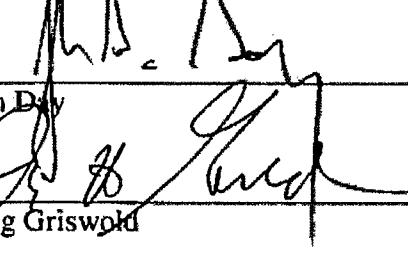
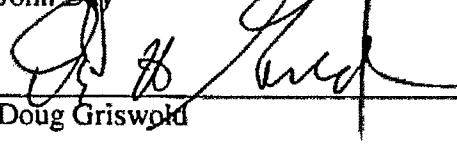
Under state statute, parties qualifying as interested persons have the right to appeal this decision or parts thereof consistent with Section 4471 of Title 24, Vermont Statutes Annotated.

VOTING AND EXECUTION

Dated in in Shelburne, Vermont for the hearing closed on February 20, 2019 as authorized by the Board:

Findings of Fact – Final Plan SUB16-02

5760 Spear Street

	Concurring	Dissenting	Abstaining	Date Signed
Jeff Paffen, Chair 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3/6/19
Mark Sammut 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
David Hillman 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3/4/19
Lauren Giannullo 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3/6/19
Norm Blais 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3/6/19
John Day 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3/6/19
Doug Griswold 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3/6/19



State of Vermont
Department of Environmental Conservation

Agency of Natural Resources
Drinking Water and Groundwater Protection Division

WASTEWATER SYSTEM AND POTABLE WATER SUPPLY PERMIT

LAWS/REGULATIONS INVOLVED

10 V.S.A. Chapter 64, Potable Water Supply and Wastewater System Permit
Wastewater System and Potable Water Supply Rules, Effective September 29, 2007
Chapter 21, Water Supply Rules, Effective December 1, 2010

Landowner(s): **Chris Snyder**
The Snyder Shelburne Properties, LLC
4076 Shelburne Road, Suite 6
Shelburne VT 05482

Permit Number: **WW-4-5195**

ABC/MRC, Inc.
1241 Webster Road
Shelburne VT 05482

This permit affects the following properties in the Town of Shelburne, Vermont:

Lot	Parcel	SPAN	Acres	Book/Page#’s
1	14-20-19.100	528-183-10006	53.50	Book:171 Page:78, Book:171 Page:80

This project, consisting of a residential subdivision, 28 three bedroom single family residence carriage homes, 18 duplex buildings (36 three bedroom units) and 27 four bedroom single family residence homes, each residential home/unit is located on its own footprint lot, utilizing municipal water and wastewater services, located off Spear Street in the Town of Shelburne, Vermont, is hereby approved under the requirements of the regulations named above subject to the following conditions.

1. GENERAL

- 1.1 The project shall be completed as shown on the plans and/or documents prepared by Lamoureux & Dickinson Consulting Engineers, Inc., (Andrew Rowe P.E.), with the stamped plans listed as follows:

Title	Sheet number / sht. no.	Plan Date	Last Revision Date
Overall Site Plan	1	6-1-17	02-11-19
Site & Utility Plan	3	6-1-17	02-11-19
Site & Utility Plan	4	6-1-17	02-11-19
Cross - Country Sewer Plan	4A	07-05-18	02-11-19
Site & Utility Plan	5	6-1-17	02-11-19
Site & Utility Plan	6	6-1-17	02-11-19
Site & Utility Plan	7	6-1-17	02-11-19
Street 'A' Profile	9	6-1-17	05-31-19
Street 'B' Profile	10	6-1-17	05-31-19
Street 'A' Profile			
Street 'B' Profile	11	6-1-17	05-31-19
Street 'C' Profile	12	6-1-17	05-31-19
Street 'D' Profile	13	6-1-17	05-31-19



Sewage Pump Station	19	6-1-17	01-10-19
Sewage Pump Station Specifications	20	6-1-17	01-10-19
Details & Specifications Sewer & Storm	23	6-1-17	01-10-19
Details & Specifications Water	24	6-1-17	01-10-19
Subdivision Plat (South)	PL-2	5-23-17	01-19-19
Subdivision Plat (North)	PL-3	5-23-17	11-30-18

- 1.2 This permit does not relieve the landowner from obtaining all other approvals and permits PRIOR to construction including, but not limited to, those that may be required from the Act 250 District Environmental Commission; the Drinking Water and Groundwater Protection Division; the Watershed Management Division; the Division of Fire Safety; the Vermont Department of Health; the Family Services Division; other State departments; or local officials.
- 1.3 The conditions of this permit shall run with the land and will be binding upon and enforceable against the landowner and all assigns and successors in interest. The landowner shall record and index this permit in the Town of Shelburne Land Records within thirty, (30) days of issuance of this permit and prior to the conveyance of any lot subject to the jurisdiction of this permit.
- 1.4 The landowner shall record and index all required installation certifications and other documents that are required to be filed under these Rules or under a specific permit condition in the Town of Shelburne Land Records and ensure that copies of all certifications are sent to the Secretary.
- 1.5 No permit issued by the Secretary shall be valid for a substantially completed potable water supply and wastewater system until the Secretary receives a signed and dated certification from a Vermont Licensed Designer (or where allowed, the installer) that states:

"I hereby certify that, in the exercise of my reasonable professional judgment, the installation-related information submitted is true and correct and the potable water supply and wastewater system were installed in accordance with the permitted design and all the permit conditions, were inspected, were properly tested, and have successfully met those performance tests"
- 1.6 or which otherwise satisfies the requirements of §1-308 and §1-911 of the referenced rules.
- 1.7 This project is approved for the construction of 28 three bedroom single family residence carriage homes, 18 duplex buildings (36 three bedroom units) and 27 four bedroom single family residence homes, each residential home/unit is located on its own footprint lot. Construction of additional nonexempt buildings, including commercial and residential buildings, is not allowed without prior review and approval by the Drinking Water and Groundwater Protection Division and such approval will not be granted unless the proposal conforms to the applicable laws and regulations. No construction is allowed that will cause non-compliance with an existing permit.
- 1.8 Each purchaser of any portion of the project shall be shown a copy of the Wastewater System and Potable Water Supply Permit and the stamped plan(s), if applicable, prior to conveyance of any portion of the project to that purchaser.
- 1.9 By acceptance of this permit, the landowner agrees to allow representatives of the State of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with the Vermont environmental and health statutes and regulations, and permit conditions.
- 1.9 Any person aggrieved by this permit may appeal to the Environmental Court within 30 days of the date of issuance of this permit in accordance with 10 V.S.A. Chapter 220 and the Vermont Rules of Environmental Court Proceedings.

2.WATER SUPPLY

- 2.1 The components of the potable water supply herein approved shall be routinely and reliably inspected during construction by a Vermont Licensed Designer (or where allowed, the installer) who shall, upon completion and prior to occupancy of the associated building, report in writing to the Drinking Water and Groundwater Protection Division that the installation was accomplished in accordance with the referenced plans and permit conditions, as specifically directed in Condition #1.5 herein.
- 2.2 This project is approved for connection to the water supply system owned by the **Town of Shelburne** as depicted on the plan(s) stamped by the Drinking Water and Groundwater Protection Division. The project is approved for **40,500 gallons** of water per day.

- 2.3 This project is approved for connection to a public water system. The installation of the public water system shall be completed in accordance with the conditions of the Public Water System Permit to Construct **Project # C-3660 WSID # VTo005087 dated June 19, 2019** or any subsequent approvals for this system issued by the Drinking Water and Groundwater Protection Division.
- 2.4 The landowner shall install and maintain backflow prevention devices that conform to Vermont Department of Public Safety standards and NFPA 13 for any connection of a sprinkler fire suppression system to a public drinking water system.
- 2.5 This permit is based, in part, on a determination by the municipality that sufficient capacity exists in the municipal water supply and associated water distribution system to accommodate the design flow of this project. This permit does not imply that the municipality will grant allocation for the project subject to this permit to physically connect to or receive water from the municipal water supply. It is recommended the landowner forward a copy of the final municipal allocation to the Drinking Water and Groundwater Protection Division with the installation certification required by Condition 1.5 of this permit for inclusion in the project file.

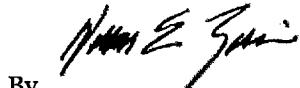
3. WASTEWATER DISPOSAL

- 3.1 The components of the wastewater system herein approved shall be routinely and reliably inspected during construction by a Vermont Licensed Designer (or where allowed, the installer) who shall, upon completion and prior to occupancy of the associated building, report in writing to the Drinking Water and Groundwater Protection Division that the installation was accomplished in accordance with the referenced plans and permit conditions, as specifically directed in Condition #1.5 herein.
- 3.2 This project is approved for connection to the **Town of Shelburne** wastewater treatment facility as depicted on the plan(s) stamped by the Drinking Water and Groundwater Protection Division. The project is approved for **21,462 gallons** of wastewater per day (including infiltration).
- 3.3 This permit is based, in part, on a determination by the municipality that sufficient capacity exists in the wastewater treatment facility and associated sewerage collection system to accommodate the design flow of this project. This permit does not imply that the municipality will grant allocation for the project subject to this permit to physically connect or discharge wastewater to the municipal sewer. It is recommended the landowner forward a copy of the final municipal allocation to the Drinking Water and Groundwater Protection Division with the installation certification required by Condition 1.5 of this permit for inclusion in the project file.
- 3.4 A Homeowners' or Landowners' Association or equivalent legal entity shall be established (if applicable), and registered with the Secretary of State, whose articles of association shall contain all necessary rights and easements for the full operation, maintenance, and repair of the shared water supply system and shared wastewater collection and delivery system. Such rights shall also enable the users (and designees) thereof to enter upon the property for any construction, inspection, maintenance, and other such reasonable purposes as may arise regarding the shared water supply system and shared wastewater collection and delivery system.

3.5 A portion of the wastewater delivery system which is to serve this project is located on the lands identified on the approved Plans. The land deeds that establish and transfer ownership of these parcels shall contain a legal easement which grants the purchaser(s) and any future owner(s) the right to enter upon the property for the construction, repair, maintenance and other such reasonable purposes as may arise regarding the wastewater delivery system. Failure to properly execute the easement renders this permit null and void for any lot/the project conveyed without the proper easement. It is recommended that a copy of the executed easement be sent to the Drinking Water and Groundwater Protection Division.

Emily Boedecker, Commissioner
Department of Environmental Conservation

Dated July 22, 2019



By William E. Zabiloski
Regional Engineer
Essex Junction Regional Office
Drinking Water and Groundwater Protection Division

cc: Lamoureux & Dickinson Consulting Engineers, Inc.
Town of Shelburne Planning Commission
Drinking Water and Groundwater Protection Division



State of Vermont

LAND USE PERMIT

CASE NO: 4C1318

The Snyder Shelburne Properties, LLC
4076 Shelburne Road, Suite 6
Shelburne, VT 05482

LAWS/REGULATIONS INVOLVED

10 V.S.A. §§ 6001 - 6093 (Act 250)

and

ABC/MRC, Inc.
c/o Bonnie Caldwell
1241 Webster Road
Shelburne, VT 05482

District Environmental Commission #4 hereby issues Land Use Permit #4C1318, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6093. This permit applies to the lands identified in Book 171, Page 78; and Book 171, Page 80, of the land records of Shelburne, Vermont.

This permit specifically authorizes the subdivision of 100 lots and construction of 91 residential units including 27 lots with single-family residences (S1-S27), 28 footprint lots for single-family carriage home-style residences (1C-28C), 36 footprint lots for duplex residential units (T1-T36) and 8 open space lots (Open Space Lot 1-8); and the construction of Caspian Lane, Elmore Street, Willoughby Lane, Carmi Drive, sidewalks, pathways, utilities and other associated site improvements (collectively the "Project"). The Project is located to the west of Spear Street and to the North of Webster Road in Shelburne, Vermont.

Jurisdiction attaches because the Project constitutes subdivision pursuant to 10 V.S.A. §6001(19) and development pursuant to 10 V.S.A. §6001(3)(A)(iv).

1. The Permittees, and their assigns and successors in interest, are obligated by this permit to complete, operate and maintain the Project as approved by the District Commission in accordance with the following conditions.
2. The Project shall be completed, operated and maintained in accordance with: (a) the conditions of this permit, (b) Findings of Fact and Conclusions of Law #4C1318, and (c) the permit application, plans, and exhibits on file with the District Environmental Commission and other material representations.

The approved plans are:

Sheet 1 - "Overall Site Plan," dated June 1, 2017, last revision April 12, 2019 (Exhibit #032a);

Sheet 2 – "Signs and Pavement Marking," dated June 1, 2017, last revision July 3, 2017 (Exhibit #033);

Sheet 3 – “Site and Utility Plan,” dated June 1, 2017, last revision February 11, 2019 (Exhibit #034);
Sheet 4 – “Site and Utility Plan,” dated June 1, 2017, last revision May 2, 2019 (Exhibit #035a);
Sheet 4A – “Site and Utility Plan,” dated July 5, 2018, last revision May 2, 2019 (Exhibit #036a);
Sheet 5 – “Site and Utility Plan,” dated June 1, 2017, last revision February 11, 2019 (Exhibit #037);
Sheet 6 – “Site and Utility Plan,” dated June 1, 2017, last revision February 11, 2019 (Exhibit #038);
Sheet 7 – “Site and Utility Plan,” dated June 1, 2017, last revision February 11, 2019 (Exhibit #039);
Sheet 8 – “Site and Utility Plan,” dated June 1, 2017, last revision February 11, 2019 (Exhibit #040);
Sheet 9 – “Street ‘A’ Profile,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #041);
Sheet 10 – “Streets ‘A’ and ‘B’ Profile,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #042);
Sheet 11 – “Street ‘B’ Profile,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #043);
Sheet 12 – “Street ‘C’ Profile,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #044);
Sheet 13 – “Street ‘D’ Profile,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #045);
Sheet 14A – “EPSC Pre-Construction Plan North,” dated January 22, 2019 (Exhibit #046);
Sheet 14B – “EPSC Pre-Construction Plan South,” dated January 22, 2019 (Exhibit #047);
Sheet 15A – “EPSC Construction Plan North,” dated January 22, 2019 (Exhibit #048);
Sheet 15B – “EPSC Construction South,” dated January 22, 2019 (Exhibit #049);
Sheet 15C – “EPSC Specifications,” dated January 22, 2019 (Exhibit #050);
Sheet 16A – “EPSC Stabilization North,” dated January 22, 2019 (Exhibit #051);
Sheet 16B – “EPSC Stabilization South,” dated January 22, 2019 (Exhibit #052);
Sheet 17 – “Landscaping Plan North,” dated June 1, 2017, last revision May 11, 2019 (Exhibit #053a);
Sheet 18 – “Landscaping Plan South,” dated June 1, 2017, last revision November 30, 2018 (Exhibit #054);
Sheet 19 – “Sewage Pump Station,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #055);

Sheet 20 – “Sewage Pump Station Specifications,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #056);
Sheet 21 – “Details and Specifications Roads,” dated June 1, 2017, last revision February 11, 2019 (Exhibit #057);
Sheet 22 – “Details and Specifications Misc. Sitework,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #058)
Sheet 23 – “Details and Specifications Sanitary and Storm,” dated June 1, 2017 (Exhibit #059)
Sheet 24 – “Details and Specifications Water,” dated June 1, 2017, last revision January 10, 2019 (Exhibit #060);
Sheet 25 – “Details and Specifications Storm and EPSC,” dated June 1, 2017 (Exhibit #061);
Sheet 26 – “Details and Specifications Storm,” dated June 1, 2017, last revision January 22, 2019 (Exhibit #062);
Sheet PL1 – “Boundary Survey,” dated May 23, 2017, last revision November 30, 2018 (Exhibit #063);
Sheet PL-2 – “Subdivision Plat (South),” dated May 23, 2017, last revision April 12, 2019 (Exhibit #064a); and
Sheet PL-3 – “Subdivision Plat (North),” dated May 23, 2017, last revision April 12, 2019 (Exhibit #065a).

3. The Permittees shall comply with all of the conditions of the following Agency of Natural Resources Permits:
 - a. Wastewater System and Potable Water Supply Permit # WW-4-5195 issued on July 22, 2019 by the Agency of Natural Resources Drinking Water and Groundwater Protection Division;
 - b. Individual Stormwater Discharge Permit #7826-INDS issued on September 12, 2017 by the Agency of Natural Resources Watershed Management Division; and
 - c. Individual Stormwater Construction Permit #7826-INDC.1 issued on May 14, 2019 by the Agency of Natural Resources Watershed Management Division.
4. Any nonmaterial changes to the permits listed in the preceding condition shall be automatically incorporated herein upon issuance by the Agency of Natural Resources.
5. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
6. A copy of this permit and plans shall be on the site at all times throughout the construction process.
7. No change shall be made to the design, operation or use of this Project without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.

8. No further subdivision, alteration, and/or development on the tract/tracts of land approved herein shall be permitted without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
9. Pursuant to 10 V.S.A. § 8005(c), the District Commission may at any time require that the permit holder file an affidavit certifying that the Project is in compliance with the terms of this permit.
10. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittees and their successors and assigns.
11. Site work and exterior construction hours shall be limited to 7:00AM to 6:00PM Monday through Friday, 8:00AM to 5:00PM Saturdays, with no construction on Sundays or State and Federal Holidays.
12. Blasting hours will be limited to 8:00AM to 6:00PM Monday through Friday with no blasting on Saturdays, Sundays or State or Federal Holidays.
13. Blasting activities shall conform to the submitted Blasting Plan and Rock Excavation Plan (Exhibit #004b) and the ANR's Best Management Practices for Blasting Activities to Avoid Environmental Contamination (2016).
14. Blast monitoring reports shall be made available to the District Commission upon request.
15. Within 30 days of the end of blasting activities, the Applicants shall conduct or cause to conduct post-blast surveys for all structures located within 400 feet of the blasting activity and all properties that are directly adjacent to the Project tract. The Commission will also require that up to one year after the end of blasting activities, each resident that had a post-blast survey completed within 30 days of the end of blasting may request one additional post-blast survey and the Applicants shall conduct or cause to conduct such a survey.
16. No crushing, sieving, or screening operations on the tract are authorized without prior written approval by the District Commission or District Coordinator, whichever is appropriate.
17. The buildings approved herein are not approved for any manufacturing use or the on-site disposal of any process wastes. The Permittees shall apply and receive amended approval from the District Commission for any change in the use of the buildings which involves the storage or handling of any regulated substances or the generation of hazardous wastes.
18. No floor drains shall be installed without first obtaining a permit or submitting other necessary documentation, as required by the Vermont Department of Environmental Conservation.
19. The Permittees and all subsequent owners or lessees shall install and maintain only low-flow plumbing fixtures in any buildings. Any failed water conservation measures shall be promptly replaced with products of equal or better performance.
20. The Permittees shall submit to the Commission the results of any visual or video inspections completed by the Shelburne Wastewater Department of the 250 foot section

of the sewer pipe along Potter Place and the 40 foot section of cross-country sewer line located to the west of Logan Court. The inspections are proposed to occur every 5 years; the Permittees shall submit the inspection results for the first two inspection rounds that occur after the interconnection of the Project to the existing sewer system.

21. The Permittees shall implement the Construction Waste Reduction Plan included in Exhibit #007.
22. The Permittees shall apply and maintain water and/or other agents approved by the Watershed Management Division in the Project's Erosion Prevention and Control Plan on all roadways or disturbed areas within the project during construction and until pavement and/or vegetation is fully established to control dust.
23. Immediately upon initial grading or excavation, a stabilized construction entrance must be installed and maintained as shown on Exhibits #046, 047, 048, 049 and 061. At a minimum, this entrance must be constructed and maintained in accordance with the specifications as described in the Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2006). No further clearing or construction may occur until the stabilized construction entrance is complete.
24. The Permittees shall comply with Exhibits #046, 047, 048, 049, 050, 051, 052, 061 and 075 for erosion prevention and sediment control. The Permittees shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion prevention and sediment control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas.
25. All mulch, siltation dams, water bars and other temporary devices shall be installed immediately upon grading and shall be maintained until all roads are permanently surfaced and all permanent vegetation is established on all slopes and disturbed areas. Topsoil stockpiles shall have the exposed earth completely mulched and have siltation checks around the base.
26. All areas of disturbance must have temporary or permanent stabilization within 14 days of the initial disturbance. After this time, any disturbance in the area must be stabilized at the end of each workday. The following exceptions apply: i) Stabilization is not required if work is to continue in the area within the next 24 hours and there is no precipitation forecast for the next 24 hours. ii) Stabilization is not required if the work is occurring in a self-contained excavation (i.e. no outlet) with a depth of 2 feet or greater (e.g. house foundation excavation, utility trenches).
27. All disturbed areas of the site shall be stabilized, seeded and mulched immediately upon completion of final grading. All disturbed areas not involved in winter construction shall be mulched and seeded before October 1. Between the periods of October 15 to April 15, all earth disturbing work shall conform with the "Requirements for Winter Construction" standards and specifications of the Department of Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2006).
28. In addition to conformance with all erosion prevention and sediment control conditions, the Permittees shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the

Permittees from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.

29. The Permittees shall maintain an undisturbed, naturally vegetated, unmowed 50-foot buffer from the edge of wetlands and any disturbed areas. Snowplowing or storage of materials within this buffer is prohibited.
30. The Permittees shall pay a transportation impact fee for the Champlain Parkway project pursuant to Act 145 (2014) – Transportation Impact Fees. The transportation impact fee for the Champlain Parkway project is \$2,069 per PM peak hour trip. The Applicant is afforded a 15% reduction in transportation fee as a result of the proposed Transportation Demand Management measures. Summing these items, the Project will be assessed a total transportation impact fee of **\$3,518** (\$2,069/PM peak hour trip x 2 PM peak trips x 85%). The money must be paid to the Vermont Agency of Transportation before commencement of construction (Development Review and Permitting Services Section, 219 N. Main Street, 4th Floor, Barre, VT 05641, Attn: Christopher Clow).
31. The Permittees shall, prior to commencement of construction, submit the calculated off-site mitigation fee payment of **\$238,902.72** to the Vermont Housing and Conservation Board (VHCB, General Counsel, 58 East State Street, Montpelier, VT 05602). The off-site mitigation fee is calculated as follows: **58.44** acres (number of acres of mitigation warranted based on impacts to Primary Agricultural Soils and statutory multipliers, see Exhibit #072) x **\$4,088** (cost to acquire conservation easements for primary agricultural soils in the same geographic region) = **\$238,902.72**. If the mitigation fee is not paid within one year from the date that a Land Use Permit is issued, the amount of the fee will be subject to a simple interest annual inflation factor increase of 2.8% and the fee will increase each year on the anniversary of the Land Use Permit to an amount equal to 102.8% of the previous year's amount, rounded to the nearest dollar.
32. Future improvements in Open Space Lot 3, outside the stormwater, drainage, and utility line components indicated on the site plans submitted under this Permit will require additional archaeological review. Exhibit #083.
33. Prior to any site work, the Permittees shall install and maintain temporary fencing or flagging around trees to be retained.
34. Any extracted stumps shall be disposed of at a State approved landfill, so as to prevent groundwater pollution.
35. The Permittees and all assigns and successors in interest shall continually maintain the landscaping as approved in Exhibits #053a, 054 and 085 by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner.
36. The installation of exterior street lighting fixtures are limited to those approved in Exhibit #058, and shall be mounted no higher than 16-feet above grade level. All exterior residential lighting fixtures shall be mounted no higher than 20-feet above grade level. All exterior lighting fixtures shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.

37. The permit authorizes the installation of street signage and two temporary non-illuminated signs near the intersections of the Project with Spear Street in accordance with Exhibit #014. The Permittees shall not erect additional exterior signage without prior written approval from the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules. Signage includes banners, flags, and other advertising displays, excepting temporary real estate marketing signs and temporary Grand Opening signs.
38. Pursuant to 30 V.S.A. Section 51(e), the Permittees and/or subsequent lot owner, at a minimum, shall construct the single family home, two family homes, and multi-family homes three stories or less in accordance with Vermont's Residential Building Energy Standards (RBES-Stretch Code) effective at the time of construction.
39. Manufactured housing (mobile homes) shall, at a minimum, meet the requirements of Title VI of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5421-5426).
40. The installation and/or use of electric resistance space heat is specifically prohibited without prior written approval from the District Environmental Commission.
41. The Permittees, upon completion of the construction of each residential building and prior to use or occupancy, shall submit to the District Commission a copy of the certification submitted to the Public Service Department as described under 30 V.S.A. § 51(f).
42. Should the Town at any time agree to accept any private utilities being then operated by the Permittees and/or assigns and successors in interest, the Permittees and/or assigns and successors in interest shall be responsible to improve the same to Town specifications and shall deed all lands involved with said improvements to the Town. Such improvements may require a land use permit amendment.
43. At the completion of the Project, and prior to the occupancy of the buildings, the Permittees shall certify by affidavit that the Project has been constructed in accordance with this permit pursuant to Act 250 Rule 32(A).
44. The Permittees shall provide each prospective purchaser of any interest in this Project a copy of the approved plot plan, the Land Use Permit and the Findings of Fact before any written contract of sale is entered into.
45. The Permittees shall reference the requirements and conditions imposed by Land Use Permit #4C1318 in all deeds of conveyance and leases.
46. Pursuant to 10 V.S.A. § 6090(b)(1) this permit (amendment) is hereby issued for an indefinite term, as long as there is compliance with the conditions herein. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the Permittees have not commenced construction and made substantial progress toward completion within the three year period in accordance with 10 V.S.A. § 6091(b).
47. All site work and construction of roadways and utilities shall be completed in accordance with the approved plans by **October 1, 2022**, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without public hearing.
48. The Permittees shall file a Certificate of Actual Construction Costs, on forms available from the Natural Resources Board, pursuant to 10 V.S.A. § 6083a(g) within one month

after construction has been substantially completed or two years from the date of this permit, whichever shall occur first. Application for extension of time for good cause shown may be made to the District Commission. If actual construction costs exceed the original estimate, a supplemental fee based on actual construction costs must be paid at the time of certification in accordance with the fee schedule in effect at the time of extension of time application. Upon request, the Permittees shall provide all documents or other information necessary to substantiate the certification. Pursuant to existing law, failure to file the certification or pay any supplemental fee due constitutes grounds for permit revocation. The certificate of actual construction costs and any supplemental fee (by check payable to the "State of Vermont") shall be mailed to: Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201; Attention: Certification.

49. Failure to comply with any condition herein may be grounds for permit revocation pursuant to 10 V.S.A. sec. 6027(g).

Dated at Essex Junction, Vermont, this 6th day of September 2019.

By /s/Parker Riehle, Vice Chair
Parker Riehle, Vice Chair
District #4 Commission

Members participating in this decision:
Monique Gilbert
Kate Purcell

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A).

Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the \$265 entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k).

For additional information on filing appeals, see the Court's website at:
<http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 951-1740. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.

State of Vermont
NATURAL RESOURCES BOARD
DISTRICT #4 ENVIRONMENTAL COMMISSION
111 West Street Essex Junction VT 05452

The Snyder Shelburne Properties, LLC
4076 Shelburne Road, Suite 6
Shelburne, VT 05482

and

ABC/MRC, Inc.
c/o Bonnie Caldwell
1241 Webster Road
Shelburne, VT 05482

Application #4C1318
Findings of Fact
Conclusions of Law, and Order
10 V.S.A. §§ 6001-6093 (Act 250)

I. INTRODUCTION

On February 25, 2018, The Snyder Shelburne Properties, LLC and ABC/MRC, Inc. filed an application for an Act 250 permit for a project located west of Spear Street and north of Webster Road in Shelburne, Vermont. The Applicant's legal interest is ownership in fee simple described in a deed recorded in Book 171, Page 78; and Book 171, Page 80, of the land records of Shelburne, Vermont.

The project includes the subdivision of 100 lots and construction of 91 residential units including 27 lots with single-family residences (S1-S27), 28 footprint lots for single-family carriage home-style residences (1C-28C), 36 footprint lots for duplex residential units (T1-T36) and 8 open space lots (Open Space Lots 1-8); and the construction of Caspian Lane, Elmore Street, Willoughby Lane, Carmi Drive, sidewalks, pathways, utilities and other associated site improvements (collectively the "Project"). The Project is located to the west of Spear Street and to the North of Webster Road in Shelburne, Vermont.

The Commission held a hearing on this application on April 9, 2019. The Commission conducted a site visit immediately before the hearing and placed its observations on the record. At the end of the hearing, the Commission recessed the proceeding pending the submittal of additional information. The Commission adjourned the hearing on September 3, 2019 after receipt of the additional information, an opportunity for parties to respond to that information, and the completion of Commission deliberations.

As set forth below, the Commission finds that the Project complies with 10 V.S.A. § 6086(a) (Act 250).

II. JURISDICTION

Jurisdiction attaches because the Project constitutes subdivision pursuant to 10 V.S.A. §6001(19) and development pursuant to 10 V.S.A. §6001(3)(A)(iv).

III. AMENDMENT APPLICATION – RULE 34(E)

The threshold question on an amendment application is "whether the applicant proposes to amend a permit condition that was included to resolve an issue critical to the issuance of the permit." Act 250 Rule 34(E)(1).

In this application, the Applicants do not seek to amend such a critical permit condition, so the Commission may consider the merits of the amendment application without conducting the rest of the Rule 34(E) analysis.

IV. PARTY STATUS AND FRIENDS OF THE COMMISSION

A. Parties by Right

The following persons who attended the hearing have party status pursuant to 10 V.S.A. §6085(c)(1):

1. The Applicants, by Chris Snyder and Alyshia Jones of The Snyder Group, Inc.; Andy Rowe and Roger Dickinson of Lamoureux & Dickinson; Robert Rushford, Esq. and Jeff Polubinski, Esq. of Gravel & Shea, PC; and Craig Heindel of Waite-Heindel Environmental Management.
2. The Agency of Natural Resources ("ANR") by Kevin Anderson at the April 9, 2019 hearing and through an entry of appearance dated April 5, 2019.
3. The Agency of Agriculture, Food and Markets ("AAFM") by Ari Rockland-Miller at the April 9, 2019 hearing and through an entry of appearance dated April 11, 2019.
4. The Division of Historic Preservation ("DHP") by Scott Dillion at the April 9, 2019 hearing and through an entries of appearance dated April 8, 2019 and May 23, 2019.
5. The Vermont Agency of Transportation ("VTrans") by Christopher Clow through an entry of appearance, dated March 29, 2019.
6. The Chittenden County Regional Planning Commission ("CCRPC") by Charlie Baker through an entry of appearance, dated April 4, 2019.

B. Interested Parties

Any person who has a particularized interest protected by Act 250 that may be affected by an act or decision of the Commission is also entitled to party status. 10 V.S.A. § 6085(c)(1)(E). To obtain party status a person must demonstrate that he or she has such a particularized interest, that the interest is protected by the Act 250 Criteria under which he or she seeks party status, and that there is a reasonable possibility that the District Commission's decision may affect that interest. The showing of this reasonable possibility must be based on more than speculation or theory.

i. Preliminary Party Status Determinations

Pursuant to Act 250 Rule 14(E), the District Commission made preliminary determinations concerning party status at the commencement of the hearing on this application. The following persons requested party status pursuant to 10 V.S.A. § 6085(c)(1)(E), and were either admitted as parties or denied party status, as indicated below:

7. Bill Supple of 239 Pierson Drive, Shelburne, Vermont attended the April 9, 2019 hearing. Mr. Supple was preliminarily granted party status under Criterion 1 for blasting, Criterion 1(B) for waste disposal and Criterion 4 for stormwater.
8. William George Mills of 113 Collamer Circle, Shelburne, Vermont submitted an entry of appearance dated April 9, 2019 and attended the April 9, 2019 hearing. Mr. Mills was

preliminarily granted party status under Criterion 1 for blasting, Criterion 1(B) for waste disposal, Criterion 4 for stormwater and Criterion 8 for aesthetics.

George Schiavone of 196 Pierson Drive and Andrew Everett of 168 Hawley Road also attended the hearing but did not request party status. No Friends of the Commission status requests were made at the hearing.

ii. Final Party Status Determinations

Prior to the close of hearings, the District Commission re-examined the preliminary party status determinations in accordance with 10 V.S.A. § 6086(c)(6) and Act 250 Rule 14(E) and found no reason to change its preliminary determinations.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Under Act 250, projects are reviewed for compliance with the ten criteria of Act 250, 10 V.S.A. § 6086(a)(1)-(10). Before granting a permit, the District Commission must find that a project complies with these criteria and, therefore, is not detrimental to the public health, safety or general welfare. The burden of proof under Criteria 1 through 4 and 9 and 10 is on the applicant, and on the opponent under Criteria 5 through 8, and 9A if the municipality does not have a duly adopted capital improvement program.

The Applicants have met the burden of proving compliance with the following criteria through submittal of the application. Therefore, the application shall serve as the Findings of Fact on these criteria:

Water Pollution	8(A) - Wildlife Habitat & Endangered Species
1(A) - Headwaters	9(A) - Impact of Growth
1(C) - Water Conservation	9(C) - Productive Forest Soils
1(D) – Floodways	9(D) - Earth Resources
1(E) - Streams	9(E) - Extraction of Earth Resources
1(F) – Shorelines	9(F) - Energy Conservation
1(G) - Wetlands	9(G) - Private Utility Services
2 - Water Supply	9(H) - Costs of Scattered Development
3 - Impact on Existing Water Supplies	9(J) - Public Utility Services
5 - Traffic	9(K) - Effects on Public Investments
6 - Educational Services	9(L) – Settlement Patterns
7 - Municipal Services	10 - Local and Regional Plans
8 – Natural Areas	
8 – Historic Sites	

The Findings of Fact are based on the application, exhibits and other evidence in the record. Findings made in this decision are not limited to the specific criterion in which they appear and may apply to other sections of the decision.

Criterion 1 - Air Pollution:

Findings of Fact

1. No ANR Air Pollution Control Permit is required for the Project, as the Project does not trigger jurisdictional thresholds.
2. During construction, the Applicants will control dust through the use of stabilized construction entrances and through the application of water and/or other dust control agents as approved by the ANR.
3. The Applicant proposes that construction hours will be limited to 7:00AM to 6:00PM Monday through Saturday. However, the Commission finds that to reduce noise, construction hours will be limited to 7:00AM to 6:00PM Monday through Friday, 8:00AM to 5:00PM on Saturdays, with no construction on Sundays or State and Federal Holidays.
4. Mr. Supple expressed many concerns regarding blasting operations. Exhibits #086 and 093. The Commission finds some of these concerns meritable, which are discussed below.
5. Blasting is required for the installation of utilities and building foundations. It is anticipated that approximately 22,000 cubic yards of material would need to be blasted. Exhibits #001 and 068.
6. The Commission will by permit condition prohibit the operation of crushing, sieving, or screening operations on the tract without prior written approval by the District Commission or District Coordinator, whichever is appropriate.
7. ANR has determined that the volume of rock removal and frequency of blasting do not warrant a groundwater monitoring plan for blasting activities provided that the Applicants implement ANR's *Best Management Practices for Blasting Activities to Avoid Environmental Contamination* (2016). Exhibit #068.
8. Blasting activities shall conform to the submitted Blasting Plan and Rock Excavation Plan. Exhibit #004b.
9. Blasting hours will be limited to 8:00AM to 6:00PM Monday through Friday with no blasting on Saturdays, Sundays or State or Federal Holidays.
10. The Blasting Plan stipulates that at least two days prior to any blasting, the Applicants will give notice of the blasting to the abutting properties within 500-feet of the of the blasting activities. Exhibit #004b.
11. The Blasting Plan stipulates that ground vibration as measured by peak particle velocity shall not exceed 2.0 inches/second as a result of blasting. Exhibit #004b.
12. The Blasting Plan stipulates that the Applicants shall conduct or cause to conduct seismic monitoring during blasting, and blast monitoring reports shall be generated for each blast event. Exhibit #004b. Seismographs are typically placed at the property line and adjacent to existing structures or closer to the blast area, to assess vibration levels due to blasting. The Commission will by permit condition require that blast monitoring reports be made available to the District Commission upon request.
13. The Blasting Plan stipulates that the Applicants conduct or cause to conduct pre-blast surveys and post-blast surveys for all structures located within 400 feet of the blasting

activity and for properties that are directly adjacent to the Project tract. Exhibit #004b. The Applicant proposes that pre-blast surveys occur two weeks before the first blasting event and that post-blast surveys occur upon completion of blasting activities.

14. Mr. Supple has expressed concern related to the damage of property as a result of blasting, and that the window for post-blast surveys should be extended to one-year from the completion of blasting in order to ascertain long-term effects of blasting. Exhibits #086 and 093.
15. The Commission will by permit condition require that within 30 days of the end of blasting activities, the Applicants shall conduct or cause to conduct post-blast surveys for all structures located within 400 feet of the blasting activity and all properties that are directly adjacent to the Project tract. The Commission will also require that up to one year after the end of blasting activities, each resident that had a post-blast survey completed within 30 days of the end of blasting may request one additional post-blast survey and the Applicants shall conduct or cause to conduct such a survey.

Conclusions of Law

The Commission concludes that this Project complies with Criterion 1(air).

Criterion 1(B) - Waste Disposal:

Findings of Fact

16. Waste generated by the Project will include waste generated from construction, wastewater/sewage, stormwater runoff and stumps generated by site clearing.
17. The ANR Drinking Water and Groundwater Protection Division issued Wastewater System and Potable Water Supply Permit #WW-4-5195 on July 22, 2019. The ANR permit authorizes 21,462 gpd of wastewater for the Project.¹ Exhibit #092.
18. The wastewater from the Project will be disposed of through a connection to the Shelburne municipal sewer system, that flows in a general northwesterly direction through the Shelburne Heights neighborhood and ultimately discharges to Wastewater Treatment Plant ("WWTP") #1 located on Crown Road in Shelburne, Vermont. Exhibit #010.
19. The Applicants have obtained a utility easement to construct a sewer line extension to connect to the existing municipal sewer system. Exhibit #077.
20. The Town of Shelburne Development Review Board approved the Project, including the proposal for routing Project wastewater to WWTP #1 on April 17, 2019. The Development Review Board decision was not appealed, and the appeal period for the Development Review Board Decision has lapsed.² Subsequent to the Development Review Board Decision, the proposal for routing Project wastewater to WWTP #1 through the Shelburne

¹ Mr. Supple asserts that the wastewater allocation of 21,462 gpd authorized by Wastewater System and Potable Water Supply Permit #WW-4-5195 is too low. Exhibit #092. Pursuant to 10 V.S.A. § 6086(d), technical determinations made by ANR shall be afforded substantial deference by the Commission.

² Mr. Supple has made several assertions that improper public notice procedures were used during the Town of Shelburne review process. Exhibit #086. The Commission does not have the authority to adjudicate municipal public procedures; the proper venue for such a dispute is the superior court.

Heights neighborhood was also taken up by the Town of Shelburne Selectboard at several public meetings. Exhibits #095-L and 095-M.

21. The Town of Shelburne issued a wastewater allocation for the Project. Exhibit #010. In an e-mail dated April 22, 2019, the Shelburne Water Quality Superintendent indicated that there is sufficient capacity in the existing sewer system to serve the Project. Exhibit #081.³
22. Mr. Supple and Mr. Mills expressed concerns that the Town wastewater allocation letter (Exhibit #010) and the April 22, 2019 letter from the Shelburne Water Quality Superintendent (Exhibit #081) provided insufficient detail to determine if the existing Shelburne Heights sewer system could accept the new wastewater capacity of the Project. Exhibits #084 and 086. Mr. Supple and Mr. Mills expressed concern that the existing Shelburne Heights sewer system may not accommodate a large increase in wastewater flow and the new flow may back up into existing residences. Mr. Supple and Mr. Mills both requested a qualified and objective engineering analysis to understand the safety and feasibility of connecting the Project to the existing Shelburne Heights sewer system. Exhibits #084 and 086.
23. The Town of Shelburne Selectboard retained Green Mountain Engineering ("GME") to provide an independent engineering analysis regarding the capacity of the existing Shelburne Heights sewer system and the addition of the new wastewater of the Project. Exhibits #089. GME concluded that, with the existing flows from the residences in the Shelburne Heights neighborhood and with the additional flows from the Project, at peak hour approximately 60% or less of the existing pipe's capacity will be utilized. Exhibit #089.
24. Mr. Supple also expressed concern regarding the maximum flow and velocity of wastewater flowing through the existing sewer system given that the Shelburne Heights sewer system was installed after the Shelburne Heights neighborhood was established and steep slopes exist within the neighborhood. Exhibits #086 and 093.
25. The Town of Shelburne Selectboard also retained GME to provide an independent engineering analysis regarding steep slopes and maximum velocity of the existing sewer infrastructure. GME identified a 250 foot section of sewer pipe along Potter Place with a slope of 11.6% and a flow rate of 9.8 fps. With the addition of the Project wastewater flows, the flow rate within this section of pipe would increase to 14 fps. GME also identified a 40 foot section of cross-country sewer line near the intersection of Logan Court and Pierson Drive with a slope of 33% and a current flow rate of 18 fps. With the addition of the Project wastewater flows, the flow rate within this section of pipe would increase to 22.3 fps.⁴ Exhibit #090. Manholes are located at either end of each of these sewer segments.
26. Based on the ANR's *Wastewater System and Potable Water Supply Rules* (2019) design criteria, sewer piping sections with slopes greater than 20% and less than 35% should be

³ Mr. Supple asserts that the Shelburne Water Quality Superintendent, Mr. Robinson, is not qualified to render decisions regarding wastewater capacity and flow. Exhibit #087. The Commission recognizes that Mr. Robinson is a licensed Grade V Domestic Wastewater Operator.

⁴ The plans provided to GME for review by the Town of Shelburne, appear to be a set of construction plans, marked up by the Contractor and provided to the Town at completion of the Shelburne Heights Sewer project. Exhibits #090, 095-R. The Applicant also submitted a set of records drawings for the Shelburne Heights Sewer project, made available from ANR. Exhibit #095-S. There is no significant difference between the set of construction plans made available from the Town and the record drawings made available from ANR. Exhibits #095-R, 095-S, 095-T.

secured with concrete anchors and sewer piping sections with velocities greater than 15 fps should be protected against displacement by erosion or shock.⁵ Exhibit #090.

27. GME concluded that the 250 foot section of sewer pipe along Potter Place does not exceed the slope or velocity thresholds,⁶ but the 40 foot section of cross-country sewer line exceeded both the 20% slope and 15 fps thresholds when it was designed and installed and would continue to exceed the thresholds with the inclusion of the Project wastewater flow. Exhibit #090.
28. GME concluded that based on available information, it is unknown if the 40 foot section of cross-country sewer line was constructed in accordance with these slope and velocity design requirements (i.e. concrete anchors and protection against displacement by erosion or shock). GME further concluded that it would be difficult to determine if the cross-country sewer pipe section was constructed in accordance with these design requirements, as it is now buried at depth. Exhibit #090.
29. GME further concluded that the Town of Shelburne could perform manhole inspections and video inspections of the pipe segments to look for evidence of erosion or displacement of piping. Exhibit #090. Recording current conditions of the sewer infrastructure would allow for visual comparison at a later date.
30. The Shelburne Wastewater Department conducted manhole and video inspections of the Potter Place sewer line and the 40 foot section of cross-country sewer line and found no issues related to displacement or erosion. Exhibits #093, 095-P1 and 095-P2. Additionally, it was identified that all inspected sections of pipe were made of SDR-35 PVC with the exception of the 40 foot section of cross-country sewer line which was composed of ductile iron piping. Exhibits #093, 095-P1 and 095-P2.
31. GME further indicated that the ductile iron piping located in the 40 foot section of the cross-country sewer line would be appropriate for higher velocities. Exhibits #093 and 095-M.
32. The Shelburne Wastewater Department agreed to inspect the 250 foot section of the sewer pipe along Potter Place and the 40 foot section of cross-country sewer line every 5 years by further manhole and video inspections. Exhibits #093 and 095-Q. The periodic monitoring will be compared against the original video inspection to identify any potential displacements or erosion of the piping segments and infrastructure.
33. Given all of the available information, the Commission finds that the recommendation from the independent engineering analysis for periodic inspections of the 250 foot section of the sewer pipe along Potter Place and the 40 foot section of cross-country sewer line is a reasonable precaution. The Shelburne Wastewater Department agreed to inspect these

⁵ It should be noted that ANR's Small Scale Wastewater Treatment and Disposal Rules (1996) were the rules in effect at the time the Shelburne Heights sewer system was designed. Although similar slope and velocity design guidelines exist in Appendix 1-A of the 1996 Rules, Section 1-706 of the 1996 Rules states, "Building Sewers, Sewer Collection Systems and Lift Stations - Appendix 1-A, Design Guidelines, provides acceptable criteria for the design of these components. If the professional engineer proposes an alternative, it will be approved if the proposed design will be as reliable as the Appendix 1-A design. When proposing an alternative, the professional engineer shall state the basis of the design and evaluate its reliability."

⁶ Mr. Supple contends that the calculations completed by GME assume that 77 residences are located within the existing Shelburne Heights neighborhood, but that there are actually 80 residences within the neighborhood. Mr. Supple believes that velocities within the sewer system may be greater than those reported by GME. Exhibit #093.

piping sections every 5 years. Exhibit #095-Q. The Commission will by permit condition require the Applicants to submit the monitoring results to the Commission, when results are made available by the Town of Shelburne.

34. Should a deterioration or failure of the sewer main occur, the Town of Shelburne is responsible to maintain and repair the sewer main.
35. The ANR Stormwater Program has issued coverage under Stormwater Construction Permit #7826-INDC.1 for the construction-phase of the Project. Exhibit #075. Findings regarding stormwater for the construction-phase of the Project are included under Criterion 4.
36. Currently, within the existing golf course, there is a subsurface collection system with inlets and underdrains to prevent standing water. The northly portion of the tract drains to an existing drainage path that slopes westerly through wooded terrain, and discharges to a wetland located north of Stonegate Lane. The southerly portion of the tract drains to a manmade pond which discharges westerly to an unnamed tributary of the Munroe Brook existing that proceeds through the Boulder Hill development. Exhibit #006.
37. Stormwater runoff from the completed Project will be treated by disconnection or directed to one of two stormwater ponds (pond north and pond south). Exhibits #005, 006 and 032a. Stormwater will be ultimately discharged to the same locations as existing conditions: a wetland located north of Stonegate Lane and unnamed tributary of the Munroe Brook that proceeds through the Boulder Hill development.
38. The ANR Stormwater Program has issued coverage under Individual Discharge Permit #7826-INDS for the operational phase of the Project. Exhibit #005.
39. Mr. Mills has stated that currently surface water flows off the golf course and through the Mills' yard. Mr. Mills expressed concern that the Project will not increase that flow. Exhibit #071.
40. The Project includes a stormwater swale along the northerly property line to divert stormwater generated from the Project away from the existing residences along Collamer Circle. The proposed swale diverts runoff to the west of the Project tract.
41. At the public hearing and in writing, Mr. Supple expressed concerns that the swale proposed along on the northern end of the Project tract would direct stormwater towards his house and property located at 239 Pierson Drive. Exhibit #086.
42. The Applicants have redesigned the swale to outlet farther south, and away from the Supple's property. Exhibits #032a, 035a and 036a. The swale will be 18-24 inches in depth as measured from the bottom of the swale to the berm or existing ground. The swale will be constructed concurrently with construction of the single-family homes on Lots S9-S13 and will be completed prior to the occupancy of the first unit on any of Lots S9-S13. Exhibit #088.
43. The Project will comply with the Construction Site Waste Reduction Plan as approved by the ANR Solid Waste Management Program. Exhibit #007.
44. The Applicants will dispose of any extracted stumps at a State approved disposal site, to prevent groundwater pollution.
45. The Project does not propose any floor drains.

46. The Project will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells.

Conclusions of Law

The ANR permits create a presumption pursuant to Act 250 Rule 19 that the disposal of wastes through the installation of wastewater and waste collection, treatment and disposal systems authorized by the permits will not result in undue water pollution. Technical determinations made by ANR are entitled to substantial deference. 10 V.S.A. § 6086(d).

The proposal for the Project is to route wastewater flow to through the existing Shelburne Heights sewer system, ultimately discharging to WWTP #1 on Crown Road in Shelburne, Vermont. Mr. Supple and Mr. Mills have brought forth reasonable concerns regarding the efficacy of the existing Shelburne Height sewer system with the addition of wastewater flows from the Project, in part because the Shelburne Heights sewer system was installed after the Shelburne Heights neighborhood was established and steep slopes exist within the neighborhood.

The Town of Shelburne Selectboard retained GME to provide an independent engineering analysis regarding the capacity of the existing Shelburne Heights sewer system and the addition of the new wastewater of the Project. The independent engineer found that with the additional flows from the Project, at peak hour approximately 60% or less of the existing pipe's capacity will be utilized. The Town of Shelburne Selectboard also retained GME to provide an independent engineering analysis regarding steep slopes and maximum velocity of the existing sewer system. Based on available information, GME identified two piping sections of concern due to steep slopes or high velocities; a 250 foot section of sewer pipe along Potter Place and a 40 foot section of cross-country sewer line near the intersection of Logan Court and Pierson Drive. The segment of cross-country sewer line was determined to be composed of ductile iron piping with manholes on either side of the segment. GME further indicated that the ductile iron piping would be appropriate for sewers with higher velocities.

The Shelburne Wastewater Department conducted manhole and video inspections of these sewer sections, to assess current conditions. The Shelburne Wastewater Department has also agreed to complete further inspections of these sewer sections every 5 years for comparison against current conditions, in order to identify any potential displacement or erosion. Should a deterioration or failure of the sewer main occur, it is the Town of Shelburne's responsibility to repair the sewer main.

Given all of the available information, the Commission finds that there is adequate capacity within the existing sewer system to accept Project wastewater flows. The Commission also finds that the recommendations from the independent engineering analysis for periodic inspections of the 250 foot section of the sewer pipe along Potter Place and the 40 foot section of cross-country sewer line every 5 years is a reasonable precaution. The Commission will by permit condition require the Applicants to submit the monitoring results to the Commission, when results are made available by the Town of Shelburne.

The Individual Stormwater Discharge Permit creates a presumption under Rule 19 that stormwater runoff during operation of the Project authorized by the permit will not result in undue water pollution. Technical determinations made by ANR are entitled to substantial deference. 10 V.S.A. § 6086(d). No evidence was presented to rebut the presumption or challenge the technical determinations made by ANR.

In addition, the Project will meet all applicable ANR regulations on waste disposal and will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells.

The Project complies with Criterion 1(B).

Criterion 4 - Soil Erosion:

Findings of Fact

47. The ANR Stormwater Program has issued coverage under Individual Discharge Permit #7826-INDS for the operational-phase of the Project. Exhibit #005. Findings regarding stormwater from the operational-phase of the Project are included under Criterion 1(B).
48. The ANR Stormwater Program has issued coverage under Individual Stormwater Construction Permit #7826-INDC.1 for the construction phase of the Project. Exhibit #075.
49. The Applicants will use erosion prevention and sediment control ("EPSC") measures contained in a site-specific EPSC Plans to control stormwater runoff during construction. Exhibits #046, 047, 048, 049, 050, 051, 052 and 061.
50. The total authorized disturbance is 35.3 acres, where no more than 5.0-acres of land may be disturbed at any one time. Exhibit #075.
51. Temporary erosion control measures include the use of stabilized construction entrances, silt fencing, inlet protection, erosion control matting, directing runoff to the stormwater treatment areas, and periodic site inspections.
52. Permanent erosion controls measures include pavement, establishing vegetation and directing runoff to the stormwater ponds and treatment areas.
53. The Project will not affect the capacity of soil on the Project site to hold water.

Conclusions of Law

The Individual Stormwater Construction Permit creates a presumption under Rule 19 that stormwater runoff during construction authorized by the permit will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water. Technical determinations made by ANR are entitled to substantial deference. 10 V.S.A. § 6086(d). No evidence was presented to rebut the presumption or challenge the technical determinations made by ANR.

The Commission concludes that the construction of the Project will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

The Project complies with Criterion 4.

Criterion 8 - Aesthetics:

Findings of Fact

54. The Project tract is located within a predominately residential area along Spear Street in Shelburne, Vermont.
55. The Project tract is surrounded by the following:

- a. To the north of the Project tract is the Morse Drive and Collamer Circle residential development and other rural land.
 - b. To the east of the Project tract is Spear Street, the Kwiniaska Golf Course (under Land Use Permit #4C1312), Kwiniaska golf driving range (under Land Use Permit series #4C1041), and the Beaver Creek Road residential development (under Land Use Permit series #4C0553).
 - c. To the south of the Project tract is Webster Road, the Munroe Brook, residential properties, the Nashville Road and Brentwood Drive residential development, the Maeck Farm Road residential development (under Land Use Permit #4C0770) and the Kelady Drive residential development (under Land Use Permit #4C0972).
 - d. To the west of the Project tract is a wooded parcel owned by the Town of Shelburne, the Boulder Hill Drive residential development (under Land Use Permit series #4C1109), the Stonegate Lane residential development (under Land Use Permit #4C0984), the Deer Run residential Development (under Land Use Permit series #4C0767), and the Longmeadow Drive residential development (under Land Use Permits #4C0079 and #4C0987).
56. The municipal plan that applies to the Project is the *2019 Shelburne Vermont Comprehensive Plan* (dated February 12, 2019). The regional plan that applies to the Project is the *Chittenden County ECOS Plan* (2018).
57. The Project is located within the Residential zoning district and the Stormwater-Impaired Watershed overlay district and part of the tract is located within the Watercourse overlay district. The *Town of Shelburne Zoning Bylaw* (2019) indicates that the Town of Shelburne has specifically planned the Residential zoning district to include moderate density, pedestrian friendly, residential neighborhoods that are served by municipal sewer.
58. The Project was granted approval by the Town of Shelburne Development Review Board on April 17, 2019 in consideration of the *Shelburne Vermont Comprehensive Plan* (2019) and the *Town of Shelburne Zoning Bylaw* (2019). Exhibit #076.
59. The proposed buildings will generally be set back from Spear Street, but will be clustered closely to Caspian Lane, Elmore Street, Willoughby Lane, and Carmi Drive.
60. The size and height of the proposed buildings are similar to those in the surrounding area.
61. The proposed residential buildings will be contemporary in style with sloping roofs. The proposed buildings will be sided with wood, vinyl or cement board with stone or masonry accents. Exhibits #001 and 021 - 031. The exterior colors of the buildings will be chosen by homeowners but will be drawn from a palette that is consistent with the existing homes in the area.
62. Each new dwelling will have a two-car garage, with space for parking in the driveway. Additional parking for peak periods is available along the new streets.
63. Exterior lighting will consist of pole-mounted street lights and will be installed no higher than 16-feet above grade. All street lighting fixtures will have concealed light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated. Exhibit #058.

64. The Commission will by permit condition require that all exterior residential building-mounted lighting fixtures shall be installed no higher than 20-feet above grade level and shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.
65. Signage to be installed includes street signage, and two temporary non-illuminated signs near the intersections with Spear Street. Exhibits #001, 014 and 033. No other exterior signage is proposed to be installed at this time.
66. The Applicants propose that construction hours will be limited to 7:00AM to 6:00PM Monday through Saturday. However, the Commission finds that to reduce noise, construction hours will be limited to 7:00AM to 6:00PM Monday through Friday, 8:00AM to 5:00PM on Saturdays, with no construction on Sundays or State and Federal Holidays.
67. New utility lines will be located underground, and utility pedestals and cabinets will be screened with vegetation. Existing overhead utility lines are located along Spear Street.
68. A bike path is proposed to be constructed along the eastern edge of the Project tract for future public use. Sidewalks are proposed along Caspian Lane, Elmore Street, Willoughby Lane, and Carmi Drive. Exhibit #032a.
69. The trees to be retained will be protected by silt fence and/or flagging during construction.
70. A neighbor to the Project, Mr. Mills, has expressed that the Project would be constructed within close proximity to his existing residence and that the Project would be at a higher elevation than his existing residence which may present adverse aesthetics impacts to his property. Exhibit #071.
71. To mitigate any potential aesthetics impacts, the Applicants and Mr. Mills have executed a landscaping agreement for Lot S9 as documented in Exhibits #053a and 085.
72. The Project will be landscaped with street trees and foundation plantings as outlined on Exhibit #053a and 054. The Applicants have agreed to continually maintain the landscaping as approved.

Conclusions of Law

Prior to granting a permit, the Commission must find that the subdivision or development under Criterion 8 will not have an undue adverse effect on the aesthetics, scenic or natural beauty of the area. 10 V.S.A. § 6086(a)(8).

The Commission uses a two-part test to determine whether a project meets the portion of Criterion 8 relating to aesthetics, scenic and natural beauty. First, it determines whether the Project will have an adverse effect. Second, it determines whether the adverse effect, if any, is undue.⁷

a. Adverse Effect

To determine whether the Project will have an adverse aesthetic effect, the Commission looks to whether the Project will "fit" the context in which it will be located. In making this evaluation, the Commission examines a number of specific factors, including: (a) the nature of the project's surroundings; (b) the compatibility of the project's design with those surroundings; (c) the suitability of the colors and materials selected for the project; (d) the

⁷ *In re: Rinkers, Inc.*, No. 302-12-08 Vtec, Decision and Order at 12 (Vt. Envtl. Ct. May 17, 2010) (citations omitted); see also, *In re: Quechee Lakes Corporation*, #3W0411-EB and #3W0439-EB, Findings of Fact, Conclusions of Law.

locations from which the project can be viewed; and (e) the potential impact of the project on open space.⁸

The Project is located in a primarily residential area along Spear Street in Shelburne, Vermont. The Project tract is immediately adjacent to single-family residences and an undeveloped area owned by the Town of Shelburne and the Kwiniaaska Golf Course, but the surrounding area contains a mixture of residential developments and open space. The Project includes the construction of 91 new residential units and the construction of roadways, sidewalks and paths. The sizes of the proposed new residential units are similar to those in the surrounding area and the architectural style and materials will not cause buildings to stand apart from the surrounding residential developments. The Project will be visible from neighboring properties, and to passersby on Spear Street (i.e. motorists and pedestrians). Although the Project is generally consistent with the surrounding properties, it is perceived as a significant change to the Project tract.

The Commission concludes that the Project will have an adverse aesthetic impact. Accordingly, we must determine whether that impact is undue.

b. Undue Adverse Effect

An adverse aesthetic impact is undue if any of the following is true: (a) the project violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area; (b) the project offends the sensibilities of the average person, or is offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area; or (c) the Applicants failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings.⁹

i. Clear, Written Community Standard

The Commission has reviewed relevant portions of *Shelburne Vermont Comprehensive Plan* (2019). The Commission has reviewed relevant portions of the *Town of Shelburne Zoning Bylaw* (2019) and the *Shelburne Vermont Subdivision Regulations* (2016). The Commission finds that the Zoning and Subdivision regulations use mandatory and not merely aspirational language.

The Project is located within the Residential zoning district which the Town of Shelburne has specifically planned to include moderate density, pedestrian friendly, residential neighborhoods that are served by municipal sewer. Additionally, the Project was approved by the Shelburne Development Review Board on April 17, 2019 with due consideration of the *Shelburne Vermont Comprehensive Plan* (2019), the *Town of Shelburne Zoning Bylaw* (2019) and the *Shelburne Vermont Subdivision Regulations* (2016). Exhibit #076.

Therefore, the Commission finds that the proposed Project does not violate a clear written community standard.

⁸ *In re: Quechee Lakes Corp et al.* #3W0411-EB and #3W0439-EB Findings of Fact, Conclusions of Law and Order at 18 (Vt. Envtl. Bd., Nov. 4, 1985)(cited in *In re: Rinkers*, No. 302-12-08 Vtec, Decision and Order at 12-13).

⁹ *In re: Rinkers*, 302-12-08 Vtec, Decision and Order at 15 (May 22, 2010)(citing *In re: Times & Seasons, LLC*, 2008 VT 7, ¶ 8; *In re McShinsky*, 153 Vt. at 592).

ii. Offensive or Shocking Character

Criterion 8 was not intended to prevent all change to the landscape of Vermont or to guarantee that the view a person sees from their property will remain the same forever. Criterion 8 was intended to ensure that as development occurs, reasonable consideration will be given to visual impacts on neighboring landowners, the local community, and on the special scenic resources of Vermont. As a threshold matter, the Commission must evaluate if a project is offensive or shocking as viewed from the perspective of an average person.¹⁰

The Commission acknowledges that the Project will be significantly different than the present condition of the Project tract. However, the Commission finds that the average person would not be shocked or offended to find a development of this nature at this location as other similar projects have been permitted nearby within the Spear Street Webster Road and Route 7 corridors.

Given these considerations, while the effects would be substantial, the Commission concludes that the Project would not be offensive or shocking to the average person.

iii. Generally Available Mitigating Steps

If a project has an adverse aesthetic effect, the applicant must take generally available mitigating steps to reduce the negative aesthetic impact of a particular project; failure to take advantage of available alternatives may render an aesthetic impact unduly adverse.¹¹ A generally available mitigating step is one that is reasonably feasible and does not frustrate either the project's purpose or Act 250's goals.

To mitigate the aesthetic impacts of the Project, the Applicants have designed the buildings to be set back from Spear Street and to be consistent with existing buildings located in the area. The size of the proposed buildings is similar to those in the surrounding area and the architectural style and materials will not cause buildings to stand apart from their surroundings. Each new residential unit will have a two-car garage, where vehicles have the potential to be screened from view. In addition, all proposed lighting will be down-shielded, utilities will be primarily located underground, and utility pedestals and cabinets will be screened with vegetation.

The Applicants have proposed landscaping along the interior roadways and preservation of existing vegetation on the western and eastern portion of the property to aid in screening of the Project from surrounding areas. The Project also includes several open space lots. The Project will be landscaped with street trees and foundation plantings as outlined on Exhibit #053a, 054 and 085. The Applicants have agreed to continually maintain the landscaping as approved.

Given all of these considerations, the Commission finds that the Applicants have taken the available mitigating steps to minimize the adverse impacts of the proposed Project on the scenic or natural beauty of the area.

¹⁰ *In re: Goddard College Conditional Use*, Nos. 175-12-11 Vtec and 173-12-12 Vtec, slip op. at 14 (Vt. Super. Ct. Envtl. Div. Jan. 6, 2014).

¹¹ *In re: Stokes Communications Corp.*, 164 Vt. 30, 39 (1995) (quoted in *In re: Rinkers*, 302-12-08 Vtec, Decision and Order at 19 (May 22, 2010)).

Based on the above, the Commission concludes that the Project will not have an undue adverse impact on the aesthetics or natural and scenic beauty of the area.

Criterion 9(B) - Primary Agricultural Soils

Findings of Fact

73. The Project tract has been used as a hay field and agricultural field in the past but was converted for the use as a golf course in the mid-1960s.
74. The tract is not located in a designated growth area referenced in 10 V.S.A. §6093(a).
75. The Applicants have attested that they do not own or control any other land containing non-agricultural soils that are reasonably suited for the purpose of the project. Exhibit #080.
76. The Project tract is surrounded by other high-density residential developments, including the Morse Drive and Collamer Circle development, the Beaver Creek Road development, the Boulder Hill Drive development, the Stonegate Lane development, the Deer Run development, and the Longmeadow Drive development.
77. The Commission finds that the Project will contribute to the existing concentrated development patterns in the area, but the Project has not been planned to minimize the reduction of agricultural potential of the primary agricultural soils on-site.
78. The surrounding development areas all have supporting municipal infrastructure and the Project is proposed to be supported by municipal infrastructure.
79. The municipal plan that applies to the Project is the *2019 Shelburne Vermont Comprehensive Plan* (dated February 12, 2019). The regional plan that applies to the Project is the *Chittenden County ECOS Plan* (2018).
80. The Project includes the following:
 - a. 53.50 acres of land.
 - b. 37.20 acres of land mapped as primary agricultural soils.
 - c. 7.32 acres of soil that do not meet the statutory definition of primary agricultural soils due to pre-existing impacts associated with the former golf course features and/or steep slopes.
 - d. 27.70 acres of primary agricultural soils which will be directly or indirectly impacted by the Project and warrant mitigation.
81. The Applicants propose to mitigate impacts to primary agricultural soils via off-site mitigation and the Commission will by permit condition require the Applicants to pay the required off-site mitigation fee prior to start of construction.

Conclusions of Law

Act 250 defines primary agricultural soil as either (1) important farmland soils map unit identified by the Natural Resources Conservation Service of the United States Department of Agriculture ("NRCS") as prime, statewide, or local importance, or (2) "soils on the project tract that the District Commission finds to be of agricultural importance, due to their present or recent use for agricultural activities..." 10 V.S.A. §6001(15).

The Commission finds that the Project will result in a reduction in the potential of 27.70 acres of primary agricultural soils, through direct or indirect impacts to the soils. Therefore, the District Commission must conduct a review of subcriteria i, ii, iii and iv of Criterion 9(B).

Subcriterion (i)

The Commission finds that the Project will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential. Therefore, the Commission concludes that the Applicants have met subcriterion (i).

Subcriterion (ii)

The Applicants affirm that they do not own or control any land containing non-agricultural soils that are reasonably suited for this Project. Exhibit #080. Therefore, the Commission concludes that the Applicants have met subcriterion (ii).

Subcriterion (iii) and (iv)

In most instances, projects that are located outside designated growth centers are required to provide on-site mitigation of primary agricultural soils through the use of "innovative land use design resulting in compact development patterns which will preserve primary agricultural soils on the project tract for present and future agricultural use."

Subcriterion (iii) is not expressly met since the Project would not minimize the reduction of the agricultural potential of the on-site primary agricultural soils and does not account for on-site mitigation. However, the Commission has the flexibility to approve alternate mitigation proposals both inside and outside of designated centers in appropriate circumstances, where in lieu of the provisions of 10 V.S.A. §6093(a)(2) and 10 V.S.A. §6098(a)(9)(B)(iii), the Commission may require payment of an off-site mitigation fee, or a combination of on-site or off-site mitigation.

In accordance with the Natural Resources Board *Statement of Procedure: Preservation of Primary Agricultural Soils Policy* (2012), appropriate circumstances may be based on a finding of the following:

- a) *"the tract of land containing primary agricultural soils is of limited value in terms of contributing to an economic or commercial agricultural operation and devoting the land to agricultural uses is considered impracticable based on the size of the land or its location in relationship to other agricultural and nonagricultural uses; or"*
- b) *"the project tract is surrounded by or adjacent to other high-density development with supporting infrastructure and, as a result of good land design, the project will contribute to the existing compact development patterns in the area; or"*
- c) *"the area contains a mixture of uses, including commercial and industrial uses and a significant residential component, supported by municipal infrastructure; and"*
- d) *"the District Commission determines that payment of an off-site mitigation fee, or some combination of on-site or off-site mitigation, will best further the goal of preserving Primary Agricultural soils for present and future agricultural use with special emphasis on protecting Prime Agricultural soils this serving to strengthen the long-term economic viability of Vermont's agricultural resources."*

The Project does not meet (a) above, as the Project tract is situated in a location that would easily support an economic or commercial agricultural operation. Devoting the land to agricultural operation would not be considered impractical based on the size of the land and proximity in relation to other agricultural and non-agricultural uses. The Project does not meet (c) above, as the surrounding area primarily contains residential development, and does not contain a mixture of uses.

The Project does meet (b) above, as the Project tract is located amidst several high-density residential developments. These surrounding development areas all have supporting municipal infrastructure and the Project is also supported by municipal infrastructure. The Commission concludes that as a result of good land design, the Project will contribute to the existing concentrated development patterns in the area.

Regarding (d) above, the Commission finds that the Project meets the appropriate circumstances guidelines and the mitigation may be solely off-site in the form of a payment to the Vermont Housing and Conservation Board. The Commission concludes that payment of an off-site mitigation fee will best further the goal of preserving primary agricultural soils for present and future agricultural use with special emphasis on protecting prime agricultural soils, thus serving to strengthen the long-term economic viability of Vermont's agricultural resources. The Commission also finds that the off-site mitigation arrangement is not inconsistent with the agricultural elements of the local and regional plans and 24 V.S.A §4302.

The off-site mitigation fee for the Project is calculated as follows: [24.66-acres (number of acres of Primary Agricultural Soils to be impacted, Group 5-7) x 2 (multiplier) x \$4,088 (cost to acquire conservation easements for primary agricultural soils in the same geographic region)] + [3.04-acres (number of acres of Primary Agricultural Soils to be impacted, Group 1) x 3 (multiplier) x \$4,088 (cost to acquire conservation easements for primary agricultural soils in the same geographic region)] = \$238,902.72.

The District Commission concludes that the Project will result in a reduction in the agricultural potential of primary agricultural soils on the Project tract; however, the Applicant has satisfied the applicable provisions of subcriteria (i) – (iv). The Project meets the appropriate circumstances guidelines and the mitigation may be solely off-site.

VI. SUMMARY CONCLUSION OF LAW

Based upon the foregoing Findings of Fact and Conclusions of Law, the Commission concludes that the Project, if completed and maintained as represented in the application and other representations of the Applicants, and in accordance with the findings and conclusions of this decision and the conditions of Land Use Permit #4C1318, will comply with the Act 250.

VII. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, Land Use Permit #4C1318 is hereby issued.

Findings of Fact, Conclusions of Law, and Order #4C1318
Page 18 of 18

DATED at Essex Junction, Vermont, this 6th day of September 2019.

By /s/Parker Riehle, Vice Chair
Parker Riehle, Vice Chair
District #4 Environmental Commission

Commissioners participating in this decision:

Monique Gilbert
Kate Purcell

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A).

Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the \$295 entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k).

For additional information on filing appeals, see the Court's website at:
<http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call 802-951-1740. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.

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Exhibit List

Application #	4C1318 (9/3/19)
Applicant(s)	The Snyder Shelburne Properties, LLC
Landowner(s)	ABC/MRC, Inc.
Project Town(s):	Shelburne



No.	Date Received (Office Use Only)	Document Name/Description	Submitted By (Office Use Only)
000		000 Exhibit List	
001	2/25/19	001 Act 250 Application; and cover letter	Applicant
002	"	002 Schedule G	"
003	"	003 Location Map	"
004	"	004 Blasting & Rock Excavation October 2017	"
004a	4/9/19	004a Blasting & Rock Excavation Revised April 2019	"
004b	5/20/19	004b Blasting & Rock Excavation Revised May 2019	"
005	2/25/19	005 Permit 7826-INDS	"
006	"	006 Stormwater Narrative 02-04-19	"
007	"	007 Waste Reduction Plan	"
008	"	008 Stream corridor ANR Atlas	"
009	"	009 Water Allocation 7-24-18	"
010	"	010 Wastewater Allocation 11-13-17	"
011	"	011 Traffic Impact Assessment 09-21-18	"
012	"	012 School Impact Questionnaire	"
013	"	013 Municipal impact questionnaire	"
014	"	014 Project Sign	"
015	"	015 Wildlife Assessment Memo 9-14-16	"
016	"	016 Gilman & Briggs Memo 10-18-18	"
017	"	017 Summary of Primary Agricultural Soils February 2019	"
017a	4/9/19	017a Summary of Primary Agricultural soils Revised April 2019	"

No.	Date Received (Office Use Only)	Document Name/Description	Submitted By (Office Use Only)
018	2/25/19	018 Site Plan with Soils 02-22-19	"
019	"	019 Town Cost Analysis	"
020	"	020 Ability to Serve Letter by GMP	"
021	"	021 Elevation View SF Home-1	"
022	"	022 Elevation view SF home-2	"
023	"	023 Elevation view SF home-3	"
024	"	024 Elevation view SF home-4	"
025	"	025 Elevation view C home-1	"
026	"	026 Elevation view C home-2	"
027	"	027 Elevation view C home-3	"
028	"	028 Elevation view C home-4	"
029	"	029 Elevation view C home-5	"
030	"	030 Elevation view C home-6	"
031	"	031 Elevation view TH-1	"
032	"	032 Overall Site Plan Sheet 1	"
032a	5/20/19	032a Overall Site Plan Sheet 1 (Rev. 4/12/19)	"
033	2/25/19	033 Signs & Pavement Marking Sheet 2	"
034	"	034 Site & Utility Plan Sheet 3	"
035	"	035 Site & Utility Plan Sheet 4	"
035a	5/20/19	035a Site & Utility Plan Sheet 4 (Rev. 5/2/19)	"
036	2/25/19	036 Site & Utility Plan Sheet 4A	"
036a	5/20/19	036a Site & Utility Plan Sheet 4A (Rev. 5/2/19)	"
037	2/25/19	037 Site & Utility Plan sheet 5	"
038	"	038 Site & Utility Plan sheet 6	"
039	"	039 Site & Utility Plan sheet 7	"
040	"	040 Site & Utility Plan sheet 8	"
041	"	041 Street A Profile sheet 9	"
042	"	042 Streets A & B Profile sheet 10	"
043	"	043 Street B Profile sheet 11	"
044	"	044 Street C Profile sheet 12	"

No.	Date Received (Office Use Only)	Document Name/Description	Submitted By (Office Use Only)
045	"	045 Street D Profile sheet 13	"
046	"	046 EPSC Pre-Construction North sheet 14A	"
047	"	047 EPSC Pre-Construction South sheet 14B	"
048	"	048 EPSC Construction North sheet 15A	"
049	"	049 EPSC Construction South sheet 15B	"
050	"	050 EPSC Specifications Sheet 15C	"
051	"	051 EPSC Stabilization North Sheet 16A	"
052	"	052 EPSC Stabilization South Sheet 16B	"
053	"	053 Landscaping North Sheet 17	"
053a	5/20/19	053a Landscaping North Sheet 17 (Rev. 5/11/19)	"
054	2/25/19	054 Landscaping North Sheet 18	"
055	"	055 Sewage Pump Station Sheet 19	"
056	"	056 Sewage Pump Station Details & Specifications Sheet 20	"
057	"	057 Details & Specifications - Roads Sheet 21	"
058	"	058 Details & Specifications - Misc Sitework Sheet 22	"
059	"	059 Details & Specifications - Sanitary & Storm Sheet 23	"
060	"	060 Details & Specifications - Water Sheet 24	"
061	"	061 Details & Specifications - Storm & EPSC Sheet 25	"
062	"	062 Details & Specifications - Storm Sheet 26	"
063	"	063 Boundary Survey Sheet PL1	"
064	"	064 Subdivision Plat South Sheet PL2	"
064a	5/20/19	064a Subdivision Plat South Sheet PL2 (Rev. 4/12/19)	"
065	2/25/19	065 Subdivision Plat North Sheet PL2	"
065a	5/20/19	065a Subdivision Plat North Sheet PL3 (Rev. 4/12/19)	"
066	4/1/19	066 Entry of Appearance Comments by VTrans (4/1/19)	VTrans
067	4/4/19	067 CCRPC Letter (4/4/19)	Regional Planning Commission
068	4/5/19	068 ANR Comments (4/5/19)	ANR
069	4/8/19	069 VDHP Entry of Appearance (4/8/19)	DHP
070	"	070 VDHP Environmental Predictive Model for Locating Pre-contact Archaeological Sites (1/9/19)	"
071	4/9/19	071 Letter by William George Mills re Party Status Request (4/9/19)	Abutter

No.	Date Received (Office Use Only)	Document Name/Description	Submitted By (Office Use Only)
072	4/11/19	072 AAFM Review (4/11/19)	AAFM
073	5/20/19	073 Letter by Lamoureux & Dickinson re Additional Information as Requested in HRO of April 12, 2019 (5/20/19)	Applicant
074	"	074 Applicant's Proposed Findings of Fact and Conclusions of Law Dated May 20, 2019	"
075	"	075 Construction General Permit 7826-INDC.1 Issued May 14, 2019	ANR
076	"	076 Town of Shelburne DRB Findings of Fact and Notice of Decision Dated April 17, 2019	Applicant
077	"	077 Easement Deed - Samuelson Dated March 20, 2019	"
078	"	078 Phase I Archeological Report by Northeast Archeology Research Center, Inc. (5/10/19)	"
079	"	079 Town of Shelburne Public Works Specs (Rev. 2/12/08)	Municipality
080	"	080 Snyder Affidavit	Applicant
081	"	081 Shelburne Town Sewer Email (4/22/19)	Municipality
082	"	082 Email by William Wilson, Watershed re Diversion Ditch (5/20/19)	ANR
083	5/23/19	083 VDHP Comment (5/23/19)	DHP
084	5/30/19	084 Letter by William George Mills re Response to HRO from April 12, 2019 (5/30/19)	Abutter
085	"	085 Mills and Synder Shelburne Properties, LLC Landscaping Agreement (5/20/19)	"
086	"	086 Letter by Bill Supple re Response to HRO from April 12, 2019 and Exhibits A-L (5/30/19)	"
087	5/31/19	087 Letter by Bill Supple re Supplemental Response to HRO from April 12, 2019 and Exhibit M (5/31/19)	"
088	7/12/19	088 Cover Letter by Andrew Rowe re Stormwater System Responses (7/12/19)	Applicant
089	"	089 GME Sewer Capacity Analysis (6/20/19)	"
090	"	090 GME Sewer Velocity Analysis and Follow-up (6/20/19)	"
091	7/23/19	091 Cover Letter by Andrew Rowe re Wastewater Permit (7/22/19)	"
092	"	092 Wastewater Permit WW-4-5195 (7/22/19)	"
093	7/29/19	093 Letter by Bill Supple re Response to Applicant's Rebuttal and Exhibits #1-7 (7/29/19)	Abutter
094	8/23/19	094 Letter by Jeffrey Polubinski, Gravel & Shea re Applicant's Supplemental Proposed Findings of Fact and Conclusions of Law and Exhibits (8/23/19)	Applicant
095	"	095 Applicant's Exhibit - Ex. J - WW-4-5195 Permit	"
095	"	095 Applicant's Exhibit - Ex. K - July 15, 2019 Supple Letter to Regional Engineer	"
095	"	095 Applicant's Exhibit - Ex. L - June 25, 2019 Selectboard Minutes	"
095	"	095 Applicant's Exhibit - Ex. M - July 9, 2019 Selectboard Minutes	"
095	"	095 Applicant's Exhibit - Ex. N - Revised June 6, 2019 Letter from GME	"
095	"	095 Applicant's Exhibit - Ex. O - Revised June 14, 2019 Letter from GME	"
095	"	095 Applicant's Exhibit - Ex. Q - June 20, 2019 Email from Krohn	"

No.	Date Received (Office Use Only)	Document Name/Description	Submitted By (Office Use Only)
095	"	095 Applicant's Exhibit - Ex. R - Marked Construction Drawings	"
095	"	095 Applicant's Exhibit - Ex. S - Record Drawings of Sewer Lines	"
095	"	095 Applicant's Exhibit - Ex. T - August 23, 2019 Memo from Andrew Rowe, PE	"
095	"	095 Applicant's Exhibit P-1-SH Sewer Video 1	"
095	"	095 Applicant's Exhibit P-2-SH Sewer Video 1	"
095	"	095 Snyder Supplemental Proposed Findings of Fact and Conclusions of Law Dated 8/23/19	"
096	9/3/19	096 Letter by Bill Supple re Reponse to Applicant's August 23, 2019 Filing (9/3/19)	Abutter
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CERTIFICATE OF SERVICE

I hereby certify on this 6th day of September 2019, a copy of the foregoing ACT 250 LAND USE PERMIT AND FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER #4C1318, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

Note: any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes. All email replies should be sent to NRB.Act250Essex@vermont.gov

The Snyder Shelburne Properties, LLC
c/o Chris Snyder/Alyshia Jones
4076 Shelburne Road, Suite 6
Shelburne, VT 05482
csnyder@snyderhomesvt.com
ajones@snyderhomesvt.com

ABC/MRC, Inc.
c/o Bonnie Caldwell
1241 Webster Road
Shelburne, VT 05482

Andy Rowe/Roger Dickinson
Lamoureux & Dickinson
14 Morse Drive
Essex Jct., VT 05452
andy@ldengineering.com
roger@ldengineering.com

Robert Rushford, Esq./Jeff Polubinski, Esq.
Gravel & Shea, PC
PO Box 369
Burlington, VT 05402
rrushford@gravelshea.com
jpolubinski@gravelshea.com

Craig Heindel
Waite-Heindel Environmental Management
7 Kilburn Street, Suite 301
Burlington, VT 05401
cheindel@gmavt.net

Diana Vachon, Town clerk
Chair, Selectboard/Chair, Planning Commission
Town of Shelburne
PO Box 88
Shelburne, VT 05482
dvachon@shelburnevt.org

Chittenden County Regional Planning Commission
c/o Charlie Baker, Exec. Dir.
Regina Mahony, Planning Program Manager
110 West Canal Street, Suite 202
Winooski, VT 05404
permitting@ccrpcvt.org

Elizabeth Lord, Land Use Attorney/Kevin Anderson
Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05602-3901
anr.act250@vermont.gov
kevin.anderson@vermont.gov

Barry Murphy/Vt. Dept. of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601
barry.murphy@vermont.gov
PSD.VTDPS@vermont.gov

Craig Keller/John Gruchacz/Jeff Ramsey/Christopher Clow
VTrans Policy, Planning & Research Bureau
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Barre, VT 05641
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AOT.Act250@vermont.gov

Ari Rockland-Miller
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116 State Street, Drawer 20
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Bill Supple
239 Pierson Drive
Shelburne, VT 05482
bill@picketfencepreview.com

William George Mills
113 Collamer Circle
Shelburne, VT 05482
gsmillsvt@comcast.net

FOR YOUR INFORMATION

District #4 Environmental Commission
Parker Riehle, Vice Chair
Kate Purcell/Monique Gilbert
111 West Street
Essex Junction, VT 05452

George Schiavone
196 Pierson Drive
Shelburne, VT 05482
gschiavone@mac.com

Andrew Everett
168 Hawley Road
Shelburne, VT 05482
andrewbeverett@gmail.com

Dated at Essex Junction, Vermont, this 6th day of September, 2019.

Christine A. Commo
Natural Resources Board Technician
879-5614
christine.commo@vermont.gov

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

STORMWATER DISCHARGE PERMIT

STORMWATER RUNOFF TO WATERS OF THE STATE

In compliance with provisions of 10 V.S.A. §1264, the Stormwater Management Rule for Stormwater-Impaired Waters and in accordance with "Terms and Conditions" hereinafter specified,

The Snyder Group, Inc.
4076 Shelburne Road Suite 6
Shelburne, VT 05482
and

Spear West Homeowners' Association, Inc.
4076 Shelburne Road Suite 6
Shelburne, VT 05482

Impervious Area: 12.34 acres

the permittee, is hereby granted permission to discharge stormwater runoff from the Kwiniaska Subdivision located on the west side of Spear Street across from the Kwiniaska Golf Course in Shelburne, Vermont to Munroe Brook and a tributary to Munroe Brook. This individual permit is required due to the impairment of the receiving water.

1. **Expiration Date:** Five years from issuance date of final permit. Note: This permit, unless revoked, modified or suspended, shall be valid until the designated expiration date notwithstanding any intervening change in water quality, effluent, or treatment standards, or classification of the receiving waters including groundwater. However, any such changed standard or classification, and any applicable requirement in a total maximum daily load (TMDL) for, shall be applied in determining whether or not to renew this permit, and in determining the conditions of a renewed permit.

The permittee shall reapply for a renewed discharge permit ninety days prior to the expiration date of this permit.

2. **Revocation:** 10 V.S.A. §1267 provides as follows:
The Secretary may, after notice and opportunity for a public hearing, revoke, modify or suspend this permit if it is found that the permittee submitted false or inaccurate information in its application or has violated any requirement, restrictions, or condition of this permit, or if there is any change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. The Secretary shall impose conditions as the Secretary deems necessary for regulating the discharges of a permittee whose permit has been revoked, modified or suspended. Revocation shall be effective upon actual notice thereof to the permittee.
3. **Operating Fees:** This discharge is subject to operating fees under 3 V.S.A. §2822. The permittee shall submit the operating fees to the Agency in accordance with procedures provided by the Secretary.
4. **Recording in Land Records:** The permittee shall record a one-page notice of issuance of this discharge permit in the local land records within fourteen (14) days of issuance of this permit on the form provided by the Secretary, per §22-312 of the Stormwater Management Rule for Stormwater-Impaired Waters. A copy of this form is available on the Stormwater Management Program website. The permittee shall provide a copy of the recording to the Stormwater Management Program within fourteen (14) days of the permittee's receipt of the copy of the recording from the local land records.

5. **Transfer of Permit:** This permit is not transferable without prior written approval of the Secretary. Provided all applicable fees under 3 V.S.A. §2822 have been paid, a permittee may submit a notice of transfer to the Stormwater Management Program. The notice shall be submitted at least five (5) days prior to the proposed date of transfer. The notice shall state that the prospective permittee has adequate funding to comply with this permit. The permittee shall provide a copy of this permit to the new owner or tenant and inform him of the responsibility to make application for a permit which shall be issued in his name. Any failure to do so shall be considered a violation of this permit.
6. **Right of Entry:** The permittee shall allow the Secretary, or his or her authorized representatives, at reasonable times, upon presentation of credentials, to enter upon and inspect the permitted premises, and the stormwater collection, treatment and control system; and to sample any discharge to determine compliance with this permit; and to have access to and inspect and copy any records required to be kept pursuant to this permit.
7. **Receiving Waters:** Munroe Brook and wetlands and an unnamed tributary to Munroe Brook
8. **Manner of Discharge:**
 - S/N 001: Stormwater runoff from rooftops, streets, drives, paved paths and walks via sheet flow to a closed stormwater system to a pocket pond with forebay, discharging by controlled outlet structure and stabilized outfall to a wetland and unnamed tributary to Munroe Brook. A portion of the rooftop on Lots S9-S19 and Lots 25C-30C are disconnected in accordance with Disconnection of Rooftop Runoff Credit.
 - S/N 002: Stormwater runoff from rooftops, streets, drives, paved paths and walks via sheet flow to a closed stormwater system to a pocket pond with forebay, discharging by controlled outlet structure and stabilized outfall to a wetland and unnamed tributary to Munroe Brook. A portion of the rooftop on Lots 30C - 34C and Lots T1-T3 are disconnected in accordance with Disconnection of Rooftop Runoff Credit.
 - S/N 003: Stormwater runoff from a paved path via sheet flow and stone channel to a manmade pond discharging to Munroe Brook. Treatment and detention standards for this discharge are met using site balancing, with runoff from existing impervious surfaces (segments of Spear Street) treated in S/N001 & 002.
9. **Wastes Permitted:** Stormwater runoff from the above named areas of the project herein after treatment as specified in the manner of discharge.
10. **Volumes Permitted and Frequency of Discharge:** Such volumes and frequency as required by the discharge specified in the Manner of Discharge above.
11. **Approved Project Design:** This project shall be constructed and operated in accordance with the following site plans and details prepared by Lamoureux & Dickinson Consulting Engineers. By reference, the following plans are made a part of this permit, (Sheet ST, "Stormwater Layout", dated 6/1/17; Sheet 3, "Site & Utility Plan - Streets A & B", dated 6/1/17; Sheet 4, "Site & Utility Plan - Street A", dated 6/1/17; Sheet 5, "Site & Utility Plan - Streets B, C, & D", dated 6/1/17; Sheet 6, "Site & Utility Plan - Street B", dated 6/1/17; Sheet 7, "Site & Utility Plan - Streets B & C", dated 6/1/17; Sheet 8, "Site & Utility Plan - Paved Path & Cross Country Sewer", dated 6/1/17; Sheet 26, "Details & Specifications - Storm", dated 6/1/17) and all supporting information.
12. **Inspection and Maintenance Reporting Requirements:**
 - a. The stormwater collection, treatment and control system shall be maintained in good operating condition at all times and **shall be inspected annually and cleaned as necessary to maintain design specifications. The inspections shall be conducted between the conclusion of spring snow melt and June 15th of each year.**

- b. Any sediment removed from the stormwater collection, treatment and control system shall be disposed of properly in accordance with state and federal statutes and regulations.
 - c. **By July 15 of each year the permittee shall submit an annual inspection report to the Secretary; or by July 30 of each year if performed by a utility or municipality pursuant to a duly adopted stormwater management ordinance. Annual Inspection Reports shall be submitted electronically to the DEC – Watershed Management Division, Stormwater Program at: <https://anronline.vermont.gov>**
 - i. Unless previously submitted by the permittee(s) under a previously issued authorization or discharge permit, the first report submitted after construction completion shall also be submitted with a Designer's Initial Statement of Compliance that the project was built in compliance with the Approved Project Design outlined above at <https://anronline.vermont.gov>.
13. **Description of Required Offset:** In order to meet the statutory standard for new discharges set forth in 10 V.S.A. §1264 and the Stormwater Management Rule for Stormwater-Impaired Waters, the permittee has demonstrated that the project will not increase the pollutant load over existing conditions. This has been accomplished by treating runoff from existing impervious surfaces within the project limits. The project achieves a net reduction in sediment loading to Munroe Brook.
14. **Secretary's Determination:** The Secretary has determined that this project meets the requirements of the Agency's 2002 Stormwater Management Manual and does not increase the sediment or hydrologic load of the receiving stormwater-impaired waters. The Secretary has determined that the proposed discharge will not reduce the quality of the receiving waters below the classification established for them.
15. **Personnel and Training Requirements:** Such personnel and training as necessary to fulfill the requirements of the Inspection and Maintenance Reporting above.
16. **Monitoring and Reporting Requirement:** No monitoring required; reporting requirement as specified in the Inspection and Maintenance Reporting above.
17. **Other Requirements:**
- a. Treated stormwater runoff is the only waste authorized for disposal under the terms and conditions of this permit. The discharge of any hazardous materials or hazardous waste into the stormwater management system is prohibited.
 - b. The issuance of this permit does not relieve the permittee from the responsibility to obtain any other local, state or federal permits required by law.
18. **Compliance with Anti-degradation and Water Quality Standards:** The Secretary has determined that the permitted discharges satisfy Vermont's Anti-degradation Policy provided in Section 1-03 of the Vermont Water Quality Standards and the Department of Environmental Conservation's Interim Anti-degradation Implementation Procedure because the applicant has demonstrated how the proposed development will implement practices and offset projects as necessary to ensure water quality is maintained in receiving waters. In particular, the applicant has demonstrated how the proposed development will implement appropriate best management practices (BMPs) designed in accordance with the requirements of the Vermont Stormwater Management Manual and as necessary offset projects in accordance with Chapter 22: Stormwater Management Rule for Stormwater-Impaired Waters. These BMPs and offset projects where necessary will manage and mitigate the proposed stormwater discharge from the project such that no lowering of water quality is expected to occur in the receiving waters.

19. Renewable Energy Projects – Right to Appeal to Public Utility Commission:

Any appeal of this decision must be filed with the clerk of the Vermont Public Utility Commission pursuant to 10 V.S.A. §8506 within 30 days of the date of this decision. The appellant must file with the Clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. §8504(c)(2), and shall also serve a copy of the Notice of Appeal on the Vermont Department of Public Service. For information, see the Rules and General orders of the Public Utility Commission available on line at www.puc.vermont.gov. The address for the Public Utility Commission is 112 State Street Montpelier, Vermont 05620-2701 (Tel. #802-828-2358).

20. All Other Projects – Right to Appeal to Environmental Court:

Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and description of the property, project or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available online at www.vermontjudiciary.org or call (802) 951-1740. The address for the Environmental Court is 32 Cherry Street, 2nd Floor Suite 303 Burlington, Vermont 05401.

Dated this 12th day of September 2017

Emily Boedecker, Commissioner
Department of Environmental Conservation

By: *Padraic Monks*
Padraic Monks, Program Manager
Stormwater Management Program

**NOTICE OF ISSUANCE OF STORMWATER DISCHARGE PERMIT
BY THE VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Notice is hereby given that an individual stormwater discharge permit or an authorization to discharge pursuant to a general stormwater discharge permit has been issued by the Vermont Department of Environmental Conservation to Permittee(s) named herein for the discharge of stormwater runoff from impervious surfaces (e.g. roadways, rooftops, parking lots, walkways) pursuant to 10 V.S.A. Section 1264 for the property identified below. The permit/authorization requires treatment and control of stormwater runoff, long-term maintenance of the treatment and control structures and payment of yearly operational fees.

Permittee(s): **Spear West Homeowners' Association, Inc. and The Snyder Group, Inc.**

Permit/Authorization Number: **7826-INDS**

911 Address of Property: **Spear Street, Shelburne**

Name of condominium, subdivision or planned community association (if applicable):
Kwiniaska Subdivision

Signature of Permittee or Authorized Representative: _____

Printed Name of Permittee or Authorized Representative: _____

Date of Signature: _____

Recording information: Municipal clerks - please index this document listing the State of Vermont, Department of Environmental Conservation as "Grantee". Please index this document listing the above named Permittee(s) as "Grantor(s)". Additionally, if this notice lists the name of a condominium, subdivision or planned community association, please list the named association as an additional "Grantor".

Please mail this stamped/recorded/completed form to:

**DEC – Watershed Management Division
Stormwater Management Program
1 National Life Drive, Main 2
Montpelier, VT 05620-3522**

Or email to: anr.wsmdstormwatergeneral@vermont.gov



**Vermont Department of Environmental Conservation
Drinking Water and Groundwater Protection Division**
One National Life Drive - Main 2
Montpelier, VT 05620-3521
<http://dec.vermont.gov/water>

Agency of Natural Resources

[phone] 802-828-1535
[fax] 802-828-1541

PUBLIC WATER SYSTEM CONSTRUCTION PERMIT
Public Community Water System

PROJECT # C-3660-19.0
WATER SYSTEM: Shelburne Water Department

PIN # EJ99-0058
WSID # VT0005087

CO-PERMITTEES:

Town of Shelburne
ATTN: Lee Krohn, Town Manager
PO BOX 88
Shelburne VT 05482

Snyder Shelburne Properties LLC
4076 Shelburne RD Suite 6
Shelburne VT 05482

PROJECT NAME: Fairway at Spear (Kwiniaska subdivision)
TOWN LOCATION: Shelburne, Vermont

This permit is issued by the Vermont Department of Environmental Conservation, Drinking Water and Groundwater Protection Division (the Division), on behalf of the Secretary of the Agency of Natural Resources (ANR), under the authority of 10 V.S.A., Chapter 56, to be constructed in accordance with the technical standards specified under the Environmental Protection Rules, Chapter 21, Water Supply Rule (Rule), last revised April 12, 2019.

The Applicants propose to install approximately 5,500 linear feet of new 8-inch diameter DR14 PVC distribution main to serve a proposed new neighborhood development in the Spear Street Pressure Zone of the Shelburne Water Department's Distribution System. The proposed water system extension will serve 28 single-family carriage homes, 36 new duplex buildings and 27 new single-family homes on individual lots. Eleven (11) new hydrants and two (2) relocated hydrants are proposed with this project. The new system will connect to the existing 12" CL50 ductile iron pipe along Spear Street in two locations; at each of the new project street intersections with Spear Street. The proposed water system extension within the neighborhood also includes multiple loops, following the proposed street network.

Pursuant to Subchapter 21-4 of the Rule, this project requires a construction permit because it involves the proposed modification of the Shelburne Water Department, WSID # VT0005087, a public community water system in Shelburne, Vermont (the Water System), through modification of the Water System's distribution pipe network.

To preserve, enhance, restore, and conserve Vermont's natural resources, and protect human health, for the benefit of this and future generations.

Construction Permit C-3660-19.0
Shelburne Town Of Snyder Shelburne Properties LLC
Fairway at Spear (Kwiniaska subdivision)
Shelburne Water Dept
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Subject to the conditions included herein, the Town of Shelburne and Snyder Shelburne Properties LLC (The Permittees) are authorized to install approximately 5,500 linear feet of 8-inch diameter distribution main, eleven fire hydrants, and associated valves, corporations, curb stops, and appurtenances to serve new connections in the Spear Street Pressure Zone of the Water System as described in the approved design documents identified in Condition A.1 of this permit.

This permit does not authorize operation of the permitted modifications. Once the activities authorized by this Construction Permit have been completed, but prior to placing them into operation, the written signed and stamped Construction Completion Certification required by Section A.8 of this Permit shall be provided to the Division. Following receipt of this Construction Completion Certification, the Division will issue a Permit to Operate to the Water System that formally recognizes the construction activities authorized by this Permit.

This Project is permitted to be constructed to conform to the Vermont Standards for Water System Design, Construction, and Protection (Design and Construction Standards) contained in Appendix A of the Rule and shall not constitute a public health hazard or a significant public health risk. The Division's review is limited to the Rule and the associated federal requirements.

A. Standard Conditions

1. The project shall be constructed, tested, and inspected in accordance with this permit and the approved engineering drawings and specifications prepared by Lamoureux & Dickinson listed below:

Design Documents Reviewed as part of Permit Application		
Document Name	Document Date	Last Revision Date
Construction Permit Application and Design Basis	Received January 28, 2019	Not Applicable
Fairway at Spear Engineering Drawing Set – Plan Sheets 1,3,4,5,6,7,8,9,10,11,12,13,23,24	June 1, 2017, received January 28, 2019	May 31, 2019 – Date of Revised Plan Set Submittal to the Division

The total number of engineering drawings reviewed by the Division for this project is fourteen (14).

These plans are permitted based upon certification by the design engineer that the plans conform to the Design and Construction Standards of the Rule. Issuance of this permit does not relieve the Permittee of their responsibility to ensure that the Water System's infrastructure meets the requirements of the Rule. The Permittee shall be responsible for performing any necessary actions required to resolve any sanitary deficiencies or defects identified related to the infrastructure modifications authorized by this Permit.

Construction Permit C-3660-19.0

Shelburne Town Of Snyder Shelburne Properties Llc
Fairway at Spear (Kwiniaska subdivision)
Shelburne Water Dept
Page 3 of 5

2. If petroleum hydrocarbon and/or chlorinated solvent contaminated soils are encountered during any phase of construction, ductile iron pipe materials shall be utilized with fluoropolymers gaskets. All pipe materials less than 3-inches in diameter must be copper pipe containing pressure fittings, and all other appurtenances shall be of material resistant to the contamination. *The Permittees shall notify the Waste Management Division at (800) 641-5005 or (802) 828-1138 within 12 hours of encountering contaminated soils during this project.*
3. Water service connections from the valve, curb stop, corporation stop at the distribution pipe, to individual buildings or structures, shall not be constructed prior to issuance of a letter of approval from the Water System to the person requesting the water service connection, and the issuance of a Wastewater System and Potable Water Supply Permit by the Division as required. Public Water Supply System letters of approval shall indicate that minimum quantity, quality and pressure requirements can be provided to the service entrance of the buildings being served. No water service connections from lead-in lines servicing fire hydrants are permissible. No new or modified water service connections shall be constructed without first receiving a determination by the Division as to whether a Wastewater System and Potable Water Supply Permit is required.
4. The Permittees shall coordinate with the Water System and the professional engineer responsible for observation of construction to perform flow-testing of new and/or replaced fire hydrants within sixty (60) days of construction and submit both flow and hydrostatic pressure data to the Division. If any or all the fire hydrant(s) are unable to meet minimum flow conditions, per Appendix A, Part 7.0.1 of the Rule, while maintaining adequate pressure at all points in the distribution system per Appendix A, Part 8.1.1. of the Rule, the deficient fire hydrant(s) must be removed within ten (10) days.
5. Field inspection of the project shall be performed under the responsible charge of a Vermont-licensed professional engineer.
6. Prior to being placed in operation, the newly constructed portions of the Water System shall be flushed, pressure tested, disinfected, and flushed again, in accordance with the specification provided on Sheet 24 of the Approved Engineering Drawings. After this procedure, at least two sample sets must be collected from representative sample points while meeting the minimum resampling periods between sample collection specified in the Rule and sent to a Vermont Department of Health certified laboratory for Bacteriological Examination of Public Water Supply. The Permittee shall indicate on the laboratory form that the sample is for "Construction Permit Compliance." Coliform Absent sample results are required before the system may be placed into operation for potable water use. The pressure/leakage and bacteriological test results shall be submitted to the Division.
7. Record drawings shall be prepared by the Vermont-licensed Professional Engineer responsible for observation of construction and shall depict the system as it was constructed, including any field modifications. Record Drawings shall be dated, contain the Vermont-licensed Professional Engineer Construction Completion Certification, seal and signature on

Construction Permit C-3660-19.0

Shelburne Town OfSnyder Shelburne Properties Llc
Fairway at Spear (Kwiniaska subdivision)
Shelburne Water Dept

Page 4 of 5

each sheet, and shall be submitted to the Division and, if applicable, to the Water System providing source water and treatment (Wholesaler) within 60 days of final field inspection and approval.

8. The following Construction Completion Certification shall be prepared by the Vermont-licensed Professional Engineer responsible for the observation of construction and submitted with a signed seal affixed:
 - i. "I hereby certify that in the exercise of my reasonable professional judgment the construction-related information submitted is true and correct and that the components of the Public Water System authorized by Public Water Supply Construction Permit # C-3660-19.0:
 1. Were installed in accordance with:
 - a. The permitted design and all permit conditions; or
 - b. Record Drawings and such Record Drawings are in compliance with the applicable rule, were filed with the Secretary, and are in accordance with all other permit conditions;
 2. Were inspected;
 3. Were properly tested; and
 4. Have successfully met those performance tests."
9. An O&M Manual update shall be submitted to the Division for review and approval within 60 days of final project inspection and approval. This O&M Manual update shall be prepared to reflect the modification/improvements/constructed infrastructure authorized by this Permit and shall meet the requirements of Appendix D of the Rule. Once this O&M Manual update is approved, the Permittee shall incorporate it into the Water System's approved O&M Manual per requirements of Subchapter21-7 of the Rule.
10. No changes shall be made to the permitted project without the written approval of the Division. A new or amended Construction Permit is required for all significant system improvements, or modifications to the Water System pursuant to Subchapter 21-4, Section 4.0.1 of the Rule. These improvements or modifications shall conform to the Design and Construction Standards in Appendix A of the Rule.
11. **Permit Expiration:** This Permit Expires on June 30, 2021. If final field inspection and approval has not been completed by this date, the Construction Permit shall expire, and a new permit shall be obtained.
12. Until the construction authorized by this permit has been completed and the documentation required by this Permit has been submitted to the Division, this permit is not transferable or assignable and it shall automatically become invalid upon a change of ownership or upon suspension or revocation.
13. Since this Permit is non-transferable, the Permittees are responsible for informing prospective new owners of drinking water infrastructure that they will be required to apply for a new public water system construction permit. Permittees shall inform the prospective Owners that they may be required to demonstrate they have the technical, managerial, and

Construction Permit C-3660-19.0
Shelburne Town OfSnyder Shelburne Properties Llc
Fairway at Spear (Kwiniaska subdivision)
Shelburne Water Dept
Page 5 of 5

financial capacities required by subchapter 21-15 of the Rule prior to receiving a new construction permit for this project.

14. By acceptance of this permit, the Permittees agree to allow representatives of the State of Vermont access to the project, at reasonable times, to ascertain compliance with Vermont environmental laws and this Permit.
15. Pursuant to 10 V.S.A. Chapters 56, 201 and 211, any violation of the terms and conditions of this permit, including any compliance schedule, is grounds for the initiation of an enforcement action by the State against the Permittee.
16. Issuance of this Public Water System Construction Permit does not relieve the Permittee from obtaining other permits or approvals that may be necessary for the Project.
17. This permit may be appealed to the Environmental Division of the Superior Court within 30 days of the date the final decision is posted to the Environmental Notice Bulletin in accordance with 10 V.S.A., Chapter 220.
18. This permit is issued and becomes effective on the date of signing.

Signed at Montpelier, VT this 19th day of June, 2019

Emily Boedecker, Commissioner
Department of Environmental Conservation

By Bryan J. Redmond
Bryan J. Redmond, Division Director
Drinking Water and Groundwater Protection Division

PCS

cc: Permittees by email: Shelburne Town Of, lkrohn@shelburnevt.org Snyder Shelburne Properties Llc, csnyder@snyderhomesvt.com
Richard K Lewis, Administrative Contact, Designated Operator, VT 0005087; rlewis@shelburnevt.org
Andrew Rowe, Lamoureux & Dickinson, andy@ldengineering.com
William Zabilowski, DWGWP
Ellen Parr-Doering, Deputy Director, DWGWP
Tim Raymond, Engineering and Operations Section Chief, DWGWP
Pat Smart, Operations Section Supervisor, DWGWP
Helen Banevicius, Administrative Services Coordinator, DWGWP
WSID file VT0005087

**SURVEYOR CERTIFICATION PURSUANT TO
27A V.S.A. § 2-109**

The undersigned, licensed in the State of Vermont, does hereby certify that the following plats for the Planned Community for Kwiniaska Ridge entitled:

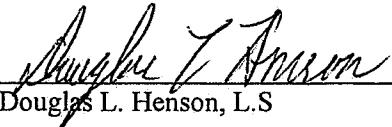
1. "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Boundary Survey," Sheet PL-1, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised November 30, 2018, and recorded in Map Slide 894A of the Town of Shelburne Land Records;
2. "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (South)," Sheet PL-2, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 894B of the Town of Shelburne Land Records;
3. "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (North)," Sheet PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide 895A of the Town of Shelburne Land Records; and
4. "Kwiniaska Ridge, Spear Street, Shelburne, Vermont, Collamer Court to Street 'A,' Cross-Country Sewer Plan," prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated July 5, 2018, last revised June 27, 2019, and recorded in Map Slide 900A of the Town of Shelburne Land Records

contains the information required by 27A V.S.A. § 2-109, with respect to the Common Interest Community, as described in the Declaration of Planned Community for Kwiniaska Ridge to be recorded in the Town of Shelburne Land Records (the "Declaration"), including: (a) the name and a plat or schematic map of the entire common interest community known as Kwiniaska Ridge; (b) the location and dimensions of all of the real estate not subject to development rights; (c) the real estate subject to development rights, if any, labeled to identify the development permitted according to the Declaration; (d) the extent of any encroachments, if any; (e) a description of all easements serving or burdening Kwiniaska Ridge; and (f) the information identifying each Lot (as defined in the Declaration).

The Notes appearing on the Plat are hereby amended to include the following:

- (i) Pursuant to 27A V.S.A. § 2-109(c), the site work infrastructure, including roadways, sewer lines, water lines, stormwater drainage lines and utilities, are hereby labeled as "MUST BE BUILT." All other improvements on the Lots are hereby labeled as "NEED NOT BE BUILT."
- (ii) For a more complete listing of the easements, permits, encumbrances and development rights affecting the Lots, reference is made to the Declaration.

In witness whereof, I have executed this certification this 28th day of January, 2020.



Douglas L. Henson, L.S.

IRREVOCABLE OFFER OF DEDICATION (ROADWAYS)

This Irrevocable Offer of Dedication (the “Irrevocable Offer”), dated this 16 day of November, 2019, is by and between **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with a place of business in Shelburne, Vermont (“Snyder”) and the **TOWN OF SHELBURNE**, a municipality located in the County of Chittenden and State of Vermont (the “Town”).

Background

1. Snyder is the owner in fee simple of a 53.5 acre, more or less, parcel of land in Shelburne, Vermont on the west side of Spear Street (the “Property”) as shown on the following plats entitled: “Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Boundary Survey,” Sheet PL-1, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised November 30, 2018, and recorded in Map Slide ____ of the Town of Shelburne Land Records; “Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (South),” Sheet PL-2, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide ____ of the Town of Shelburne Land Records; and “Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision (North),” Sheet PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised April 12, 2019, and recorded in Map Slide ____ of the Town of Shelburne Land Records (collectively, the “Plat”).

2. On February 20, 2019, Snyder obtained approval from the Town of Shelburne Development Review Board (the “Board”) by Findings of Fact and Notice of Decision on Final Plat Application #SUB16-02 for a project on the Property consisting of a ninety-one (91) unit residential Planned Unit Development (the “Project”).

3. As part of the Project, Snyder plans to construct and subsequently dedicate to the Town of Shelburne all the roadways and associated improvements over the lands owned and controlled by Snyder, consisting of Caspian Lane, Elmore Street, Carmi Drive and Willoughby Lane as shown on the Plat (collectively, the “Public Roadways”).

4. Snyder now proposes, according to the terms of this Irrevocable Offer, to dedicate to the Town, free and clear of all encumbrances, the Public Roadways in four phases as more particularly described on Exhibit A, Exhibit B, Exhibit C and Exhibit D attached hereto, subject to the terms and conditions set forth herein, pursuant to said final approval and as depicted on the Plat.

N O W, T H E R E F O R E ,

In consideration of the final approval of the Board and for other good and valuable consideration, the receipt of which is hereby acknowledged, it is covenanted and agreed as follows:

Section 1. Snyder herewith delivers to the Town four (4) unexecuted Warranty Deeds for the Public Roadways, the description of which is set forth as Exhibit A, Exhibit B, Exhibit C and Exhibit D attached hereto, said delivery constituting a formal irrevocable offer of dedication to the Town of the Public Roadways, to be held by the Town until the acceptance or rejection of such irrevocable offer of dedication by the legislative body of the Town.

Section 2. Snyder agrees that this Irrevocable Offer is irrevocable and the Warranty Deeds may be accepted or rejected by the Town in whole or in part at any time and in any order.

Section 3. This Irrevocable Offer shall run with the land and be binding upon Snyder and its respective successors and assigns.

Section 4. This Irrevocable Offer shall serve as notice to any and all utility companies that the Town has an interest in the Public Roadways, which interest shall be first and superior to any easements granted to said utility companies, and all work within the area of the Public Roadways shall be in accordance with the Town's public works standards as they may be amended from time to time.

Section 5. Snyder agrees that the maintenance of the Public Roadways described herein shall be its responsibility prior to acceptance of ownership by the Town.

IN WITNESS WHEREOF, the parties, as evidenced by the signatures of their Duly Authorized Agents, do hereby execute this Irrevocable Offer as of the 6 day of November, 2019.

THE SNYDER SHELBOURNE PROPERTIES,
LLC

By: 
Duly Authorized Agent

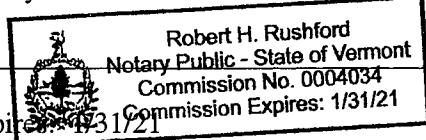
STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this 6 day of November, 2019, personally appeared Christopher P. Snyder,
Duly Authorized Agent of **THE SNYDER SHELBOURNE PROPERTIES, LLC**, to me known to be the
person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to
be his free act and deed and the free act and deed of **THE SNYDER SHELBOURNE PROPERTIES,
LLC**.

Before me,

Notary Public – State of Vermont

Printed Name: _____



My commission expires 1/31/21

TOWN OF SHELBOURNE

By: _____
Lee Krohn, Town Manager and Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this _____ day of _____, 2019, personally appeared Lee Krohn, Town Manager and Duly Authorized Agent of **TOWN OF SHELBURNE** to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **TOWN OF SHELBURNE**.

Before me, _____
Notary Public – State of Vermont

Printed Name: _____

My commission expires: 1/31/21

Exhibit A

PROPERTY DESCRIPTION FOR IRREVOCABLE OFFER OF DEDICATION

CASPIAN LANE

Being a strip of land for public roadway and related utility purposes over an unimproved strip of land, being a sixty-foot wide (60') strip with wider tapered curbs depicted as "Caspian Lane" as shown on the following plats entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat").

Said strip of land is a portion of the lands and premises conveyed by Warranty Deed from ABC/MRC, Inc. to The Snyder Shelburne Properties, LLC dated Nov 6 and recorded in Volume ___ at Page ___ of the Town of Shelburne Land Records.

The Premises are subject to: (a) all rights-of-way, easements, conditions and covenants of record or as depicted on the Plat, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; and (b) the provisions of municipal ordinances, public laws, and special acts.

Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description.

Exhibit B

PROPERTY DESCRIPTION FOR IRREVOCABLE OFFER OF DEDICATION

ELMORE STREET

Being a strip of land for public roadway and related utility purposes over an unimproved strip of land, being a sixty-foot wide (60') strip with wider tapered curbs depicted as "Elmore Street" as shown on the following plats entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat").

Said strip of land is a portion of the lands and premises conveyed by Warranty Deed from ABC/MRC, Inc. to The Snyder Shelburne Properties, LLC dated Nov 6 and recorded in Volume ___ at Page ___ of the Town of Shelburne Land Records.

The Premises are subject to: (a) all rights-of-way, easements, conditions and covenants of record or as depicted on the Plat, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; and (b) the provisions of municipal ordinances, public laws, and special acts.

Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description.

Exhibit C

PROPERTY DESCRIPTION FOR IRREVOCABLE OFFER OF DEDICATION

CARMI DRIVE

Being a strip of land for public roadway and related utility purposes over an unimproved strip of land, being a sixty-foot wide (60') strip with wider tapered curbs depicted as "Carmi Drive" as shown on the following plats entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat").

Said strip of land is a portion of the lands and premises conveyed by Warranty Deed from ABC/MRC, Inc. to The Snyder Shelburne Properties, LLC dated Nov 6 and recorded in Volume ___ at Page ___ of the Town of Shelburne Land Records.

The Premises are subject to: (a) all rights-of-way, easements, conditions and covenants of record or as depicted on the Plat, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; and (b) the provisions of municipal ordinances, public laws, and special acts.

Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description.

Exhibit D

PROPERTY DESCRIPTION FOR IRREVOCABLE OFFER OF DEDICATION

WILLOUGHBY LANE

Being a strip of land for public roadway and related utility purposes over an unimproved strip of land, being a sixty-foot wide (60') strip with wider tapered curbs depicted as "Willoughby Lane" as shown on the following plats entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat").

Said strip of land is a portion of the lands and premises conveyed by Warranty Deed from ABC/MRC, Inc. to The Snyder Shelburne Properties, LLC dated Nov 6 and recorded in Volume ___ at Page ___ of the Town of Shelburne Land Records.

The Premises are subject to: (a) all rights-of-way, easements, conditions and covenants of record or as depicted on the Plat, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; and (b) the provisions of municipal ordinances, public laws, and special acts.

Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description.

**OPEN SPACE AGREEMENT
TOWN OF SHELBURNE
AND
THE SNYDER SHELBURNE PROPERTIES, LLC
(KWINIASKA SUBDIVISION)**

THIS AGREEMENT made this 6th day of May 2019, between **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with a place of business in Shelburne, Vermont (hereinafter referred to as "Grantor") and the **TOWN OF SHELBURNE**, a municipal corporation situated in Chittenden County, Vermont (hereinafter referred to as "Municipality").

W I T N E S S E T H:

WHEREAS, the Grantor is the owner of certain lands in the Municipality which it acquired by Warranty Deed of ABC/MRC, INC. dated November 6, 2019 and recorded in Volume ___ at Page ___ of the Land Records of the Municipality; and

WHEREAS, the Grantor is developing said lands as a ninety-one (91) unit residential subdivision (the "Project") which is shown and depicted on the following plats entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat".); and

WHEREAS, the Grantor has received final subdivision approval from the Municipality's Development Review Board for its project pursuant to Findings of Fact and Notice of Decision dated March 6, 2019 for PUD-R Final Plan Application SUB16-02; and

WHEREAS, the Grantor in presenting its proposal to the Development Review Board agreed that certain lands would remain in their open state in consideration for the final subdivision and planned residential approval; and

WHEREAS, the Grantor and the Municipality recognize the value of retaining the open space character of said lands preserving them in their natural, scenic and open condition and in so doing furthering their aesthetic, agricultural and ecological value; and

WHEREAS, Title 10, Chapter 155, Vermont Statutes Annotated, permits Vermont municipalities to acquire interest in land in the nature of conservation and open space easements; and

WHEREAS, the Municipality desires to acquire a conservation and open space easement regarding certain lands of the Grantor in furtherance of the purposes enumerated in 10 V.S.A. Section 6301.

NOW, THEREFORE, the Grantor for and in consideration of the Development Review Board's approval of its subdivision and planned residential development, the facts above recited, and of the mutual covenants, terms, conditions and restrictions herein contained and as an absolute and unconditional transfer does hereby freely give, grant and convey unto the Municipality, its successors and assigns forever, a conservation and open space easement or restriction over the land depicted as "Open Space Parcel 3, 17.92 AC" as more fully described and shown on the Plat and as described in Exhibit A attached hereto and made a part hereof (the "Protected Property") for the following purposes:

1. The right of public view of the property in its natural, scenic and/or open condition;
2. The right of the official representatives of the Municipality, in a reasonable manner and at reasonable times, to enter and inspect the Protected Property;
3. The right of the Municipality, to enforce by injunction or proceedings at law or in equity, the covenants hereinafter set forth; and in furtherance of the foregoing affirmative rights, the Grantor, for itself and its successors and assigns, makes the following covenants, which shall run with and bind the Protected Property in perpetuity:
 - (a) There shall be no construction or placing of any buildings or structures of any kind, temporary or permanent on the Protected Property, except as noted below and as noted on the "Overall Site Plan, Spear Street, Shelburne, VT, A Portion of the Lands of the Kwiniaska Golf Club," prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017, last revised November 30, 2018, and filed with the Town of Shelburne.
 - (b) There shall be no filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, nor any building of roads or change in the

topography of the land in any manner, except as noted below. The Grantor and its successors or assigns, shall have the right to create drainage swales, detention basins, and control structures for the collection and treatment of stormwater associated with the Project and to add drainage improvements for continued agricultural use.

(c) The Grantor, its successors and assigns, shall have the right to maintain the open space area in an orderly and presentable manner including the right to: 1) farm the Protected Property in accordance with Accepted Agricultural Practices established by the State of Vermont, Agency of Agriculture, Food and Markets and to use the Protected Property as part of on-site primary agricultural soils mitigation in any Act 250 proceeding for the Project; 2) keep the grass trimmed on the Protected Property, and 3) take any other normal maintenance action in maintaining the pleasant appearance of the Protected Property.

(d) The Grantor shall also allow, as a matter of enforcement, the Town of Shelburne to enter on the Protected Property and to cut any trees and woody vegetation on the Protected Property if the Grantor fails to cut in accordance with the Covenants.

(e) There shall be no dumping of trash, garbage or other unsightly or offensive material; and no changing of the topography through the placing of soil or other substance of materials such as landfill except as required during construction and completion of the project as approved or done in conjunction with accepted agricultural practices.

(f) There shall be no activities or uses on the Protected Property which shall be detrimental or could be detrimental to drainage, flood control, water conservation, fish and wildlife or habitat preservation.

The Grantor, for itself and its successors and assigns, agrees to pay any real estate taxes or other assessments levied by competent authorities on the Protected Property and to relieve the Municipality from responsibility for maintaining the property.

The Grantor agrees that the terms, conditions, restrictions, and purposes of this grant will be inserted by reference in any subsequent deed, or other legal instrument, by which the Grantor divest itself of either

fee simple title or possessory interest in the property or in any of the Protected Property forming a part of the development.

TO HAVE AND TO HOLD the said conservation easement and restriction unto the Municipality and its successors and assigns forever.

It is the intention of the parties hereto that the grant of easements and covenants herein is pursuant to the authority set forth in Title 10, Chapter 155, Vermont Statutes Annotated, as presently enacted and from time to time hereinafter amended, and that all of the provisions of said Chapter shall be binding upon the Grantor, its successors and assigns and upon the property, and shall inure to the benefit of the Municipality, its successors and assigns.

If any part of this agreement shall be decreed to be invalid by any court of competent jurisdiction, such decree shall not be interpreted so as to invalidate the remainder of this Agreement.

Although this conservation restriction and easement will benefit the public as provided above, nothing herein shall be construed to convey a right to the public of access or use of the Protected Property, and the Grantor, for itself and its successors and assigns, shall retain exclusive right to use the Protected Property for all purposes not inconsistent with this conservation restriction and easement.

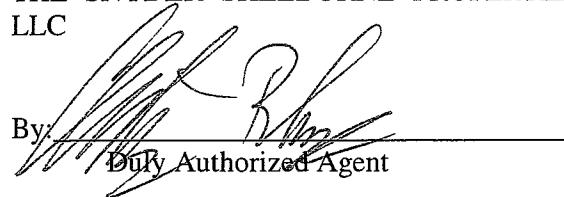
This Open Space Agreement may be transferred or assigned to a not-for-profit land trust recognized by the State of Vermont. The Open Space Agreement may also be replaced by a Grant of Development Rights and Conservation Easement to a not-for-profit land trust by the Grantor and its successors and assigns, subject to approval by both the Grantor and the Town of Shelburne.

IN WITNESS WHEREOF, the parties, as evidenced by the signatures of their Duly Authorized Agents, do hereby execute this Open Space Agreement as of the 6 day of November 2019.

IN PRESENCE OF:

Witness 
R. Pugh Wilson

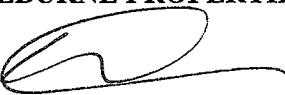
THE SNYDER SHELBOURNE PROPERTIES,
LLC

By: 
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this 6 day of November, 2019, personally appeared Christopher R. Snyder, Duly Authorized Agent of **THE SNYDER SHELBOURNE PROPERTIES, LLC**, to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **THE SNYDER SHELBOURNE PROPERTIES, LLC**.

Before me,


Notary Public

Printed Name:

Robert H. Rushford
Notary Public - State of Vermont
Commission No. 0004034
Notary commission issued in Chittenden County
My commission expires: 1/31/21

IN PRESENCE OF:

TOWN OF SHELBOURNE

Witness

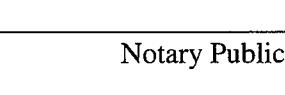
By:

Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this _____ day of _____, 2019, personally appeared _____, Duly Authorized Agent of **TOWN OF SHELBOURNE** to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **TOWN OF SHELBOURNE**.

Before me,


Notary Public

Printed Name:

Notary commission issued in Chittenden County
My commission expires:

Exhibit A

PROTECTED PROPERTY DESCRIPTION

Being "Open Space Parcel 3, 17.92 AC", as shown on the following plats: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat").

Said lands are a portion of the lands and premises conveyed by Warranty Deed from ABC/MRC, Inc. to The Snyder Shelburne Properties, LLC dated Nov 6, 2019 and recorded in Volume ____ at Page ____ of the Town of Shelburne Land Records.

Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description.

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that **THE SNYDER SHELBOURNE PROPERTIES, LLC**, a Vermont limited liability company with its principal place of business in Shelburne, County of Chittenden and State of Vermont ("Grantor"), in consideration of Ten and More Dollars paid to its full satisfaction by the **TOWN OF SHELBOURNE**, a Vermont municipality in the County of Chittenden and State of Vermont (the "Grantee"), by these presents does freely **GIVE, GRANT, SELL, CONVEY, AND CONFIRM** unto the Grantee, **TOWN OF SHELBOURNE**, and its successors and assigns forever, such permanent and temporary rights and easements for the purpose of constructing and maintaining a public sidewalk and associated improvements for public use over, on and through certain lands and premises located in the Town of Shelburne in the County of Chittenden and State of Vermont (the "Easement") described as follows, viz:

Being a fifteen-foot (15') wide easement for the construction, operation, use, maintenance, repair and replacement of a pedestrian path depicted as "15' Wide Path Easement to the Town of Shelburne" on a plat entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat").

Said easement and right-of-way shall be used by the public as a recreational and bicycle pathway subject to the condition that no motorized traffic, including but not limited to motorcycles, trail bikes and snowmobiles, shall be allowed to use the pathway, except motorized vehicles used by the Grantee, or its agents, for emergency vehicles or for the purpose of maintaining or patrolling the pathway, or motorized vehicles necessary to accommodate users of differing abilities.

By its recording of this Deed, Grantee agrees, for itself and its successors and assigns, that any premises of Grantor lying outside the scope of the Easement disturbed or affected by Grantee's exercise of the rights granted it hereunder, shall be restored as near as reasonably practical to their condition prior to such entry at Grantee's own cost and within a reasonable time. Grantee, by the recording of this Deed, acknowledges that this easement has been donated to the Town of Shelburne, at no cost to the Town, with the intent that Grantor and its successors and assigns shall receive the full benefit and protection of 19 V.S.A. Section 2309.

Grantor, its successors and assigns, shall have the right to make use of the surface of so much of its property as is encumbered hereby, such as shall not be inconsistent with Grantee's use of said Easement, but specifically shall place no structures, landscaping or other improvements within said Easement which shall prevent or interfere with the Grantee's ability to use said Easement.

Grantee shall be responsible for obtaining any and all necessary governmental permits, and is responsible for amending, if applicable, any and all existing permits for the current uses of Grantor's Property, but solely in connection with this project.

The Easement is a portion of the land and premises conveyed to The Snyder Shelburne Properties, LLC by Warranty Deed from ABC/MRC, Inc. dated November 6, 2019 and recorded in Volume ____ at Page ____ of the Town of Shelburne Land Records.

The Easement is subject to: (a) all rights-of-way, easements, conditions and covenants of record or as depicted on the Plat, not meaning to reinstate any claims barred by operation of the Vermont

Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; and (b) the provisions of municipal ordinances, public laws, and special acts.

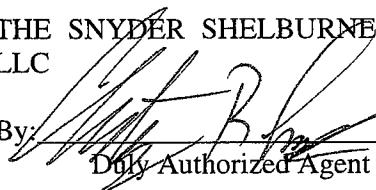
Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description

TO HAVE AND TO HOLD the said granted Easement, with all the privileges and appurtenances thereto, to the Grantee, **TOWN OF SHELBURNE**, and its successors and assigns, to their own use and behoof forever; and Grantor, for itself and its successors and assigns, does covenant with Grantee, and its successors and assigns, that until the ensealing of these presents, Grantor is the sole owner of the Easement, and has good right and title to convey the same in the manner aforesaid, that the said Easement is **FREE FROM EVERY ENCUMBRANCE**, except as aforementioned; and it hereby engages to **WARRANT and DEFEND** the same against all lawful claims whatever, except as aforementioned.

IN WITNESS WHEREOF, **THE SNYDER SHELBURNE PROPERTIES, LLC**, has set its hand and seal by its Duly Authorized Agent this 6 day of November, 2019.

THE SNYDER SHELBURNE PROPERTIES,
LLC

By:


Duly Authorized Agent

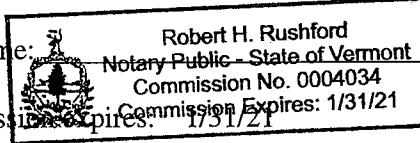
STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this 6th day of November, 2019, personally appeared Christy L. Syde, Duly Authorized Agent of **THE SNYDER SHELBURNE PROPERTIES, LLC**, to me known to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed of **THE SNYDER SHELBURNE PROPERTIES, LLC**.


Before me,

Notary Public – State of Vermont

Printed Name:



EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with its principal place of business in Shelburne, County of Chittenden and State of Vermont ("Grantor"), in consideration of Ten and More Dollars paid to its full satisfaction by the **TOWN OF SHELBURNE**, a Vermont municipality in the County of Chittenden and State of Vermont (the "Grantee"), by these presents does freely **GIVE, GRANT, SELL, CONVEY, AND CONFIRM** unto the Grantee, **TOWN OF SHELBURNE**, and its successors and assigns forever, certain perpetual non-exclusive easements over certain lands and premises located in the Town of Shelburne in the County of Chittenden and State of Vermont (the "Easements") described as follows, viz:

Being easements for the operation, use, maintenance, inspection, testing, repair and replacement of utilities and all stormwater catch basins, swales, ditches, drainage lines, pipes extending from Caspian Lane, Elmore Street, Willoughby Lane and Carmi Drive to the private stormwater drainage system serving Grantor's subdivision including, without limitation, the stormwater and utility easements depicted: (1) "Sideline Stormwater Easement to Town of Shelburne"; (2) "20' Wide Utility Easement to the Town of Shelburne"; (3) "15' Wide Utility Easement to the Town of Shelburne"; (4) "10' Wide Drainage Easement to the Town of Shelburne"; (5) "Stormwater Access Easement to Town of Shelburne"; (6) "40' x 40' Utility Easement to the Town of Shelburne", all as shown on the following plats entitled: "Lands of ABC/MRC, Inc., Spear Street, Shelburne, Vermont, Subdivision," Sheets PL-1 PL-2 and PL-3, prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated May 23, 2017 last revised April 12, 2019 and recorded in Map Slide 894A, 894B and 895A of the Town of Shelburne Land Records (collectively, the "Plat").

Being also a general easement for ingress and egress over the roadways, driveways and undeveloped portions of Grantor's lands to provide access to the stormwater ponds as depicted on the Plat.

By its recording of this Deed, Grantee agrees, for itself and its successors and assigns, that any premises of Grantor lying outside the scope of the Easements disturbed or affected by Grantee's exercise of the rights granted it hereunder, shall be restored as near as reasonably practical to their condition prior to such entry at Grantee's own cost and within a reasonable time. Grantee, by the recording of this Deed, acknowledges that the Easements have been donated to the Town of Shelburne, at no cost to the Town, with the intent that Grantor and its successors and assigns shall receive the full benefit and protection of 19 V.S.A. Section 2309.

Grantor, its successors and assigns, shall have the right to make use of the surface of so much of its property as is encumbered hereby, such as shall not be inconsistent with Grantee's use of said Easements, but specifically shall place no structures, landscaping or other improvements within said Easements which shall prevent or interfere with the Grantee's ability to use said Easements.

Grantee shall be responsible for obtaining any and all necessary governmental permits, and is responsible for amending, if applicable, any and all existing permits for the current uses of Grantor's Property, but solely in connection with this project.

The Easements are a portion of the land and premises conveyed to The Snyder Shelburne Properties, LLC by Warranty Deed from ABC/MRC, Inc. dated November 6, 2019 and recorded in Volume ____ at Page ____ of the Town of Shelburne Land Records.

The Easements are subject to: (a) all rights-of-way, easements, conditions and covenants of record or as depicted on the Plat, notwithstanding to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. §§ 601-611, both inclusive; and (b) the provisions of municipal ordinances, public laws, and special acts.

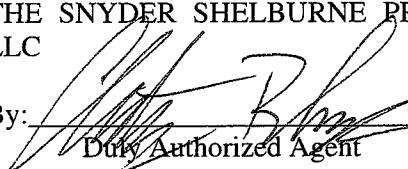
Reference is hereby made to the above-mentioned plan and deeds and the records thereof, and the references therein made all in further aid of this description

TO HAVE AND TO HOLD the said granted Easement, with all the privileges and appurtenances thereto, to the Grantee, **TOWN OF SHELBURNE**, and its successors and assigns, to their own use and behoof forever; and Grantor, for itself and its successors and assigns, does covenant with Grantee, and its successors and assigns, that until the sealing of these presents, Grantor is the sole owner of the Easement, and has good right and title to convey the same in the manner aforesaid, that the said Easements are **FREE FROM EVERY ENCUMBRANCE**, except as aforementioned; and it hereby engages to **WARRANT and DEFEND** the same against all lawful claims whatever, except as aforementioned.

IN WITNESS WHEREOF, **THE SNYDER SHELBURNE PROPERTIES, LLC**, has set its hand and seal by its Duly Authorized Agent this 6 day of November, 2019.

THE SNYDER SHELBURNE PROPERTIES,
LLC

By:


Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

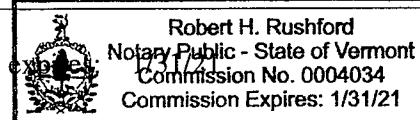
On this 6th day of November, 2019, personally appeared Robert H. Rushford, Duly Authorized Agent of **THE SNYDER SHELBURNE PROPERTIES, LLC**, to me known to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed of **THE SNYDER SHELBURNE PROPERTIES, LLC**.

Before me,


Notary Public – State of Vermont

Printed Name:

My commission expires



Vermont Property Transfer Tax
 32 V.S.A. Chap 231
ACKNOWLEDGEMENT
 RETURN REC'D-TAX PAID BOARD
 OF HEALTH CERT. REC'D.
 VT LAND USE & DEVELOPMENT
 PLANS ACT. CERT. REC'D
 Return No. 2019-181 on November 8, 2019

Diana Vachon Town Clerk

Date Nov 08 **KNOW ALL PERSONS BY THESE PRESENTS**, that **ELNA M. SAMUELSEN** (f/k/a Elna Wells), of Shelburne, County of Chittenden and State of Vermont ("Grantor"), in consideration of Ten and More Dollars, and other valuable consideration, the receipt and satisfaction of which are hereby acknowledged, to her paid by **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with a place of business in Shelburne, Vermont ("Grantee"), hereby **GIVES, GRANTS, SELLS, CONVEYS and CONFIRMS** unto the said Grantee, **THE SNYDER SHELBURNE PROPERTIES, LLC**, and its successors and assigns, a perpetual sewer line easement, on and through her property in the Town of Shelburne, County of Chittenden and State of Vermont (the "Easement"), described as follows, viz:

Being an easement and right of way twenty (20) feet in uniform width for the purpose of laying, maintaining, repairing, testing, inspecting and replacing an underground sewer line (the "Sewer Line"), which Easement shall generally run along the easterly boundary of Grantor's land, to the west of the existing fence line, in a south to north direction which extends from a point at the intersection of Grantor's southeasterly corner and the northerly boundary of Grantee's adjacent lands and premises known as Kwiniaska Ridge; thence proceeding in a northerly direction in and along Grantor's easterly boundary a distance of 233 feet, more or less, to a point which is located within the public right of way of Collamer Circle for connection to the municipal sewer line in Collamer Circle, which Easement is depicted as the "Proposed 20' Wide Sewer Easement to Town of Shelburne" on a plan entitled: "Kwiniaska Ridge, Spear Street, Shelburne, Vermont, Collamer Circle to Street 'A,' Cross-Country Sewer Plan," prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated June 22, 2018, last revised June 27, 2019, and recorded in Map Slide ____ of the Town of Shelburne Land Records (the "Easement Plan").

The Easement is conveyed to Grantee for use for municipal sewer line purposes to provide sewer service to the dwellings and units in Grantee's adjacent project known as Fairway at Spear and Grantor acknowledges and agrees that Grantee may re-convey this Easement to the Town of Shelburne as part of the municipal sewer system. This Deed shall act as a bill of sale and does hereby convey all sewer line improvements located on, over and under the Easement, including but not limited to all pipes, lines, mains and related appurtenances.

Grantor, and her heirs and assigns, shall have the right to fully make use of and enjoy the land where the Easement is located; provided, however that Grantor shall place no structures or other improvements (except for driveways) within said permanent Easement area or take other actions which shall prevent or unreasonably interfere with the Grantee's ability to exercise Grantee's easement rights conveyed herein.

Grantee, for itself and its successors and assigns, by the acceptance of this Easement Deed, agrees to the following: (i) to notify Grantor prior to accessing the Easement for initial construction and for maintenance work requiring heavy equipment; (ii) at the conclusion of the work, to restore any damage to Grantor's property, including raised beds and replacement of the full fence line along both the southern and eastern sides of Grantor's property in the same location as existed prior to such construction work; (iii) to comply with all applicable laws, ordinances, rules, and regulations, including any applicable environmental laws, with respect to the exercise of its rights under the Easement herein conveyed and maintain the Sewer Line and all related facilities in good, safe operating condition and in compliance with all laws, rules, permits and ordinances; (iv) to maintain adequate insurance to cover Grantee's obligations hereunder and require all contractors to maintain adequate insurance when entering onto or performing work on Grantor's property; and (v) to indemnify, defend and hold Grantor and her heirs and assigns harmless from and against any and

TOWN CLERK'S OFFICE
 Received Nov 08, 2019 08:30A
 Recorded in VOL# 455 PG# 344- 345
 OF Shelburne Land Records
Attest:
 Diana Vachon
 Town Clerk

all liability, loss, damage, claim, cost, expense or fee, including engineering and permitting fees, and attorneys' fees and costs, due to or arising directly or indirectly out of Grantee's use or maintenance of the Easement, or the breach of Grantee's obligations hereunder, provided that such claim, liability, damage, loss or expense is not caused by the gross negligence of Grantor, her agents, licensees, heirs or assigns; and provided, further, that the above-described indemnity obligations shall not apply to the Town of Shelburne in the event the Easement is re-conveyed to the Town as a municipal sewer line.

The Easement is located within a portion of the same lands and premises conveyed to Elna Wells (n/k/a Elna M. Samuelsen) by Quitclaim Deed from Brett Wells dated August 13, 2012 and recorded in Volume 401 at Page 19 of the Town of Shelburne Land Records, which lands are known and designated as Lot #57 in the Shelburne Heights Development, Section B, as shown on a plan recorded in Map Book B at Page 31 of the Town of Shelburne Land Records.

The Easement is subject to: (a) the provisions of municipal ordinances, public laws and special acts; and (b) all easements and rights of way of record, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. § 601, *et seq.*

Reference is hereby made to the above-mentioned Easement Plan and deeds and the records thereof, and the references therein made all in further aid of this description.

TO HAVE AND TO HOLD the said granted Easement, with all the privileges and appurtenances thereto, to the Grantee, **THE SNYDER SHELBURNE PROPERTIES, LLC**, and its successors and assigns, to their own use and behoof forever; and Grantor, **ELNA M. SAMUELSEN**, for herself and her heirs and assigns, covenants with Grantee, and its successors and assigns, that until the ensealing of these presents, Grantor is the sole owner of the Easement, and has good right and title to convey the same in the manner aforesaid, that the said Easement is **FREE FROM EVERY ENCUMBRANCE**, except as aforementioned; and she hereby engages to **WARRANT and DEFEND** the same against all lawful claims whatever, except as aforementioned.

IN WITNESS WHEREOF, **ELNA M. SAMUELSEN** has executed this Easement Deed this 1 day of November, 2019.

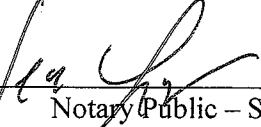


Elna M. Samuelsen

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this 1 day of November, 2019, personally appeared **ELNA M. SAMUELSEN**, to me known to be the person who executed the foregoing instrument, and she acknowledged this instrument, by her signed, to be her free act and deed.

Before me,



Notary Public – State of Vermont

Printed Name:



Jean Lagrow

My commission expires: 1/31/21

**END OF
DOCUMENT**



-ACKNOWLEDGMENT-

VPT RETURNS RECEIVED

Return No 2019 - 217Date 6 JANUARY 2020Signed D.C. Vachon Asst Clerk**TOWN CLERK'S OFFICE**

Received Jan 06, 2020 09:30A

Recorded in VOL: 456 PG: 324- 326

OF Shelburne Land Records

Attest:Diana Vachon
Town Clerk**CORRECTIVE EASEMENT DEED**

KNOW ALL PERSONS BY THESE PRESENTS, that ELNA M. SAMUELSEN (f/k/a Elna Wells), of Shelburne, County of Chittenden and State of Vermont ("Grantor"), in consideration of Ten and More Dollars, and other valuable consideration, the receipt and satisfaction of which are hereby acknowledged, to her paid by THE SNYDER SHELBOURNE PROPERTIES, LLC, a Vermont limited liability company with a place of business in Shelburne, Vermont ("Grantee"), hereby **GIVES, GRANTS, SELLS, CONVEYS and CONFIRMS** unto the said Grantee, THE SNYDER SHELBOURNE PROPERTIES, LLC, and its successors and assigns, a perpetual sewer line easement, on and through her property in the Town of Shelburne, County of Chittenden and State of Vermont (the "Easement"), described as follows, viz:

Being an easement and right of way fifteen (15) feet in uniform width for the purpose of laying, maintaining, repairing, testing, inspecting and replacing an underground sewer line (the "Sewer Line"), which Easement shall generally run along the easterly boundary of Grantor's land, to the west of the existing fence line, in a south to north direction which extends from a point at the intersection of Grantor's southeasterly corner and the northerly boundary of Grantee's adjacent lands and premises known as Kwiniska Ridge; thence proceeding in a northerly direction in and along Grantor's easterly boundary a distance of 233 feet, more or less, to a point which is located within the public right of way of Collamer Circle for connection to the municipal sewer line in Collamer Circle, which Easement is depicted as the "Proposed 15' Wide Sewer Easement to Town of Shelburne" on a plan entitled: "Kwiniska Ridge, Spear Street, Shelburne, Vermont, Collamer Court to Street 'A,' Cross-Country Sewer Plan," prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated July 5, 2018, last revised June 27, 2019, and recorded in Map Slide 900A of the Town of Shelburne Land Records (the "Easement Plan").

The Easement is conveyed to Grantee for use for municipal sewer line purposes to provide sewer service to the dwellings and units in Grantee's adjacent project known as Fairway at Spear and Grantor acknowledges and agrees that Grantee may re-convey this Easement to the Town of Shelburne as part of the municipal sewer system. This Deed shall act as a bill of sale and does hereby convey all sewer line improvements located on, over and under the Easement, including but not limited to all pipes, lines, mains and related appurtenances.

Grantor, and her heirs and assigns, shall have the right to fully make use of and enjoy the land where the Easement is located; provided, however that Grantor shall place no structures or other improvements (except for driveways) within said permanent Easement area or take other actions which shall prevent or unreasonably interfere with the Grantee's ability to exercise Grantee's easement rights conveyed herein.

Grantee, for itself and its successors and assigns, by the acceptance of this Easement Deed, agrees to the following: (i) to notify Grantor prior to accessing the Easement for initial construction and for maintenance work requiring heavy equipment; (ii) at the conclusion of the work, to restore any damage to Grantor's property, including raised beds and replacement of the full fence line along both the southern and eastern sides of Grantor's property in the same location as existed prior to such construction work; (iii) to comply with all applicable laws, ordinances, rules, and regulations, including any applicable environmental laws, with respect to the exercise of its rights under the Easement herein conveyed and maintain the Sewer Line and all related facilities in good, safe operating condition and in compliance with all laws, rules, permits and ordinances; (iv) to maintain adequate insurance to cover Grantee's obligations hereunder and require all contractors to maintain adequate insurance when entering onto or performing work on Grantor's property; and (v) to indemnify, defend and hold Grantor and her heirs and assigns harmless from and against any and

all liability, loss, damage, claim, cost, expense or fee, including engineering and permitting fees, and attorneys' fees and costs, due to or arising directly or indirectly out of Grantee's use or maintenance of the Easement, or the breach of Grantee's obligations hereunder, provided that such claim, liability, damage, loss or expense is not caused by the gross negligence of Grantor, her agents, licensees, heirs or assigns; and provided, further, that the above-described indemnity obligations shall not apply to the Town of Shelburne in the event the Easement is re-conveyed to the Town as a municipal sewer line.

The Easement is located within a portion of the same lands and premises conveyed to Elna Wells (n/k/a Elna M. Samuelsen) by Quitclaim Deed from Brett Wells dated August 13, 2012 and recorded in Volume 401 at Page 19 of the Town of Shelburne Land Records, which lands are known and designated as Lot #57 in the Shelburne Heights Development, Section B, as shown on a plan recorded in Map Book B at Page 31 of the Town of Shelburne Land Records.

The Easement is subject to: (a) the provisions of municipal ordinances, public laws and special acts; and (b) all easements and rights of way of record, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. § 601, *et seq.*

The purpose of this Corrective Easement Deed is to correct the description of the Easement, which appeared in the original Easement Deed from Grantor to Grantee dated November 1, 2019 and recorded in Volume 455 at Page 344 of the Town of Shelburne Land Records (the "Original Easement Deed"). The Original Easement Deed misstated the width of the Easement as being twenty (20) feet in width when the correct width of the Easement is fifteen (15) feet. The Original Easement Deed also contained an incorrect description of the Easement Plan. The correct description of the Easement is provided herein.

Grantee, THE SNYDER SHELBOURNE PROPERTIES, LLC, joins in the execution of this Corrective Easement Deed to quitclaim any right, title and interest it may have in the Grantor's land other than the Easement as conveyed in this Corrective Easement Deed, meaning and intending to quitclaim any and all right, title and interest that THE SNYDER SHELBOURNE PROPERTIES, LLC has in any portion of the Grantor's land conveyed to Grantee in the Original Easement Deed lying outside the Easement.

Reference is hereby made to the above-mentioned Easement Plan and deeds and the records thereof, and the references therein made all in further aid of this description.

TO HAVE AND TO HOLD the said granted Easement, with all the privileges and appurtenances thereto, to the Grantee, THE SNYDER SHELBOURNE PROPERTIES, LLC, and its successors and assigns, to their own use and behoof forever; and Grantor, ELNA M. SAMUELSEN, for herself and her heirs and assigns, covenants with Grantee, and its successors and assigns, that until the ensealing of these presents, Grantor is the sole owner of the Easement, and has good right and title to convey the same in the manner aforesaid, that the said Easement is **FREE FROM EVERY ENCUMBRANCE**, except as aforementioned; and she hereby engages to **WARRANT** and **DEFEND** the same against all lawful claims whatever, except as aforementioned.

IN WITNESS WHEREOF, ELNA M. SAMUELSEN has executed this Easement Deed this 30 day of December, 2019.

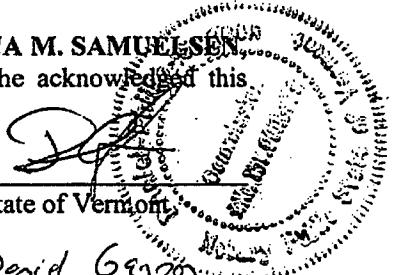


Elina M. Samuelsen

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this 30 day of December, 2019, personally appeared ELNA M. SAMUELSEN, to me known to be the person who executed the foregoing instrument, and she acknowledged this instrument, by her signed, to be her free act and deed.

Before me,


Notary Public – State of Vermont

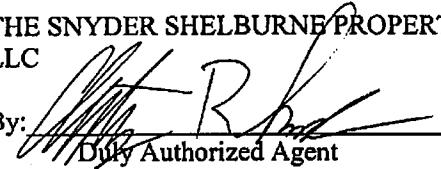
Printed Name:

David Gagnon

My commission expires: 1/31/21

THE SNYDER SHELBOURNE PROPERTIES,
LLC

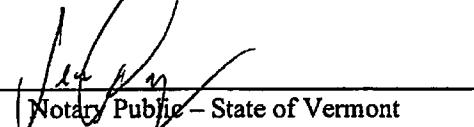
By:


Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

On this 27 day of December, 2019, personally appeared Christopher R. Snyder, Duly Authorized Agent of THE SNYDER SHELBOURNE PROPERTIES, LLC, to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of THE SNYDER SHELBOURNE PROPERTIES, LLC.

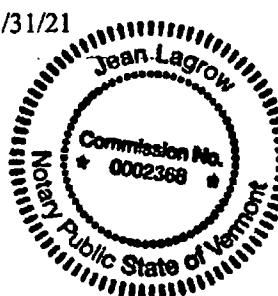
Before me,


Notary Public – State of Vermont

Printed Name:

Jean Lagrow

My commission expires: 1/31/21



EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that **THE SNYDER SHELBURNE PROPERTIES, LLC**, a Vermont limited liability company with its principal place of business in Shelburne, County of Chittenden and State of Vermont ("Grantor"), in consideration of Ten and More Dollars paid to its full satisfaction by the **TOWN OF SHELBURNE**, a Vermont municipality in the County of Chittenden and State of Vermont (the "Grantee"), by these presents does freely **GIVE, GRANT, SELL, CONVEY, AND CONFIRM** unto the Grantee, **TOWN OF SHELBURNE** unto the said Grantee, **THE SNYDER SHELBURNE PROPERTIES, LLC**, and its successors and assigns, a perpetual sewer line easement, on and through her property in the Town of Shelburne, County of Chittenden and State of Vermont (the "Easement"), described as follows, viz:

Being an easement and right of way fifteen (15) feet in uniform width for the purpose of laying, maintaining, repairing, testing, inspecting and replacing an underground sewer line (the "Sewer Line"), which Easement shall generally run along the easterly boundary of Grantor's land, to the west of the existing fence line, in a south to north direction which extends from a point at the intersection of Grantor's southeasterly corner and the northerly boundary of Grantee's adjacent lands and premises known as Kwiniaska Ridge; thence proceeding in a northerly direction in and along Grantor's easterly boundary a distance of 233 feet, more or less, to a point which is located within the public right of way of Collamer Circle for connection to the municipal sewer line in Collamer Circle, which Easement is depicted as the "Proposed 15' Wide Sewer Easement to Town of Shelburne" on a plan entitled: "Kwiniaska Ridge, Spear Street, Shelburne, Vermont, Collamer Court to Street 'A,' Cross-Country Sewer Plan," prepared by Lamoureux & Dickinson Consulting Engineers, Inc. dated July 5, 2018, last revised June 27, 2019, and recorded in Map Slide 900A of the Town of Shelburne Land Records (the "Easement Plan").

The Easement is conveyed to Grantee for use for municipal sewer line purposes to provide sewer service to the dwellings and units in Grantee's adjacent project known as Fairway at Spear and Grantor acknowledges and agrees that Grantee may re-convey this Easement to the Town of Shelburne as part of the municipal sewer system. This Deed shall act as a bill of sale and does hereby convey all sewer line improvements located on, over and under the Easement, including but not limited to all pipes, lines, mains and related appurtenances.

Grantor, and her heirs and assigns, shall have the right to fully make use of and enjoy the land where the Easement is located; provided, however that Grantor shall place no structures or other improvements (except for driveways) within said permanent Easement area or take other actions which shall prevent or unreasonably interfere with the Grantee's ability to exercise Grantee's easement rights conveyed herein.

Grantee, for itself and its successors and assigns, by the acceptance of this Easement Deed, agrees to the following: (i) to notify Grantor prior to accessing the Easement for initial construction and for maintenance work requiring heavy equipment; (ii) at the conclusion of the work, to restore any damage to Grantor's property, including raised beds and replacement of the full fence line along both the southern and eastern sides of Grantor's property in the same location as existed prior to such construction work, reasonable wear and tear excepted; (iii) to comply with all applicable laws, ordinances, rules, and regulations, including any applicable environmental laws, with respect to the exercise of its rights under the Easement herein conveyed and maintain the Sewer Line and all related facilities in good, safe operating condition and in compliance with all laws, rules, permits and ordinances; and (iv) to maintain adequate insurance to cover Grantee's obligations hereunder and require all contractors to maintain adequate insurance when entering onto or performing work on Grantor's property.

The Easement is located within a portion of the same lands and premises conveyed to Elna Wells (n/k/a Elna M. Samuelsen) by Quitclaim Deed from Brett Wells dated August 13, 2012 and recorded in Volume 401 at Page 19 of the Town of Shelburne Land Records, which lands are known and designated as Lot #57 in the Shelburne Heights Development, Section B, as shown on a plan recorded in Map Book B at Page 31 of the Town of Shelburne Land Records. The Easement was conveyed by Corrective Easement Deed of Elna M. Samuelsen (f/k/a Elna Wells) to The Snyder Shelburne Properties, LLC dated of or about even date herewith and recorded in Volume ____ at Page ____ of the Town of Shelburne Land Records.

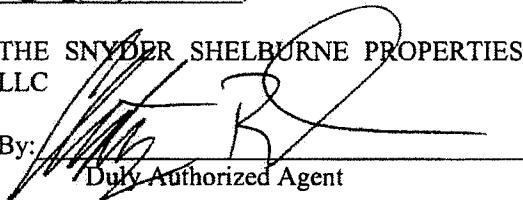
The Easement is subject to: (a) the provisions of municipal ordinances, public laws and special acts; and (b) all easements and rights of way of record, not meaning to reinstate any claims barred by operation of the Vermont Marketable Record Title Act, 27 V.S.A. § 601, *et seq.*

Reference is hereby made to the above-mentioned Easement Plan and deeds and the records thereof, and the references therein made all in further aid of this description.

TO HAVE AND TO HOLD the said granted Easement, with all the privileges and appurtenances thereto, to the Grantee, **TOWN OF SHELBURNE**, and its successors and assigns, to their own use and behoof forever; and Grantor, for itself and its successors and assigns, does covenant with Grantee, and its successors and assigns, that until the ensealing of these presents, Grantor is the sole owner of the Easement, and has good right and title to convey the same in the manner aforesaid, that the said Easement is **FREE FROM EVERY ENCUMBRANCE**, except as aforementioned; and it hereby engages to **WARRANT** and **DEFEND** the same against all lawful claims whatever, except as aforementioned.

IN WITNESS WHEREOF, **THE SNYDER SHELBURNE PROPERTIES, LLC**, has set its hand and seal by its Duly Authorized Agent this 27 day of December, 2019.

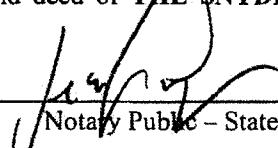
THE SNYDER SHELBURNE PROPERTIES,
LLC

By: 
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

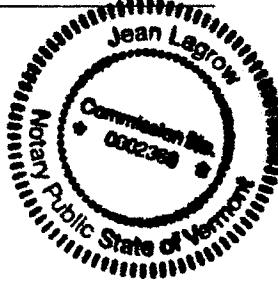
On this 27 day of December, 2019, personally appeared Christopher R. Snyder, Duly Authorized Agent of **THE SNYDER SHELBURNE PROPERTIES, LLC**, to me known to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed of **THE SNYDER SHELBURNE PROPERTIES, LLC**.

Before me,


Notary Public – State of Vermont

Printed Name: Jean Lagrow

My commission expires: 1/31/21





156 Battery Street, Burlington, VT 05401
T 802 660 4735 | F 802 419 3662

By Appointment Only:
92 Fairfield Street, St. Albans, VT 05478
T 802 524 9721 | F 802 419 3662

Edward G. Adrian (Of Counsel)
Christian Chorba
James F. Conway, III*
Steven R. Ducham
Brian P. Monaghan
Claudine C. Safar

*Also licensed in New Hampshire
and Maine

*Also licensed in Massachusetts

October 21, 2019

VIA EMAIL ONLY

Dean L. Pierce, Director of Planning and Zoning
Ravi Venkataraman, Development Review Board Coordinator
Town of Shelburne
P.O. Box 88
Shelburne, VT 05482

Re: The Snyder Group, Inc.
5760 Spear Street

Dear Dean and Ravi:

This letter follows our June 13, 2019 third-party review letter regarding the above-referenced project in which we requested additional documents as well as changes to several documents.

All requested changes have been made and additional documents provided, and our third-party review is therefore complete.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Monaghan Safar Ducham PLLC

A handwritten signature in black ink, appearing to read "Kristen E. Shamis".

Kristen E. Shamis, Esq.

Enclosure